

**THE INTERPRETER'S LINGUISTIC POWER: A NEW COURTROOM REALITY IN
IMMIGRATION HEARINGS**

by

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University of Pittsburgh, 2005

The main objective of this study is to determine the impact of immigration interpreters on the testimony of Spanish-English bilingually conducted hearings in one U.S. immigration court. Specifically, I analyze the performance of nine immigration interpreters. I identify the precise linguistic strategies they employ when interpreting and, using conversational and other discourse analytical approaches, determine how they become active members of the proceedings. The immigration hearings I observed took place in one Federal immigration courtroom located in a large northeastern city.

This research shows the extent to which interpreters play a pivotal role in controlling courtroom discourse—constructing courtroom reality and either mitigating or magnifying the culpability of defendants through a variety of linguistic mechanisms: a) inaccurate lexical choice, b) the use of source language rather than target language words and phrases, c) the use of definitions and calques, d) the improper addition or deletion of repair mechanisms and of hesitation forms such as pauses and fillers, and e) the addition of polite forms of address to convey solidarity, to adhere to Hispanic cultural norms, and to avoid face threatening acts. This study shows that the linguistic power interpreters wield exerts a coercive force, particularly on witnesses and defendants, and that such linguistic coerciveness on the part of interpreters influences other participants in the judicial proceeding. In this study, both judges and attorneys are shown to have been influenced by the lexical choices of interpreters. Finally, I show that the intrusiveness of interpreters changes the pragmatic force intended by the speakers, which constitutes a violation of the ethical standards set for interpreters in the United States by such authorities as the Federal Judicial Center.

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PREFACE

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1. IMMIGRATION LAW AND LEGAL INTERPRETING

1.1. INTRODUCTION

Court interpreting, or bilingual legal interpreting, is a rapidly growing profession in many countries throughout the world, and especially in the United States. The National Association of Judiciary Interpreters and Translators (NAJIT) reports that more than a million people immigrate to this country per year, out of which 200,000 immigrate illegally (Sherr, 2003). This increase in the immigration population is felt in nearly every state, but especially in California, New York, New Jersey, Texas, Florida, and Illinois (Sherr, 2003). Therefore, social service agencies, administrative offices, hospitals, law enforcement offices, small claims courts, family courts, and immigration courts are fueling the need for qualified, competent interpreters to assist in the process of communicating with those who are not proficient in English.

In immigration courts in particular, professionally trained interpreters are essential to affording non-English speaking litigants the right to a linguistically fair legal hearing process. Becoming a qualified and proficient bilingual interpreter is a process that requires intensive training and many years of experience. In general, there is a common misconception that anyone who speaks two languages fluently is capable of serving as an interpreter. However, the ability to speak two languages is only the foundation for becoming a qualified interpreter. Furthermore, an interpreter in the area of legal interpreting is required to be not only fully bilingual and skilled at interpreting, but also to have extensive knowledge of legal terminology, courtroom procedure,

and interpreting ethics. Legal interpreters are also required to be familiar with slang expressions and colloquialisms that may not be found in the standard dialect of a language (Roberson, 2004). Given that the current influx of such immigrants is expected to continue unabated, the need for professionally trained interpreters will likely continue unabated as well.

My preliminary research observations, made in one Immigration and Naturalization Services (INS) courtroom located in a large northeastern city, focused on the roles of the interpreters and the judges in INS hearings when limited-English speaking defendants and witnesses underwent questioning. These observations indicate that in INS hearings, procedures governing the interactions between the judge, the interpreter, and the examinee are systematically different from those normally followed in other sorts of judicial proceedings (e.g., small claims court and change of plea hearings). INS hearings are not linguistically homogeneous. Court proceedings are conducted orally in English and recorded in English. An interpreter is often needed, since English is generally not the first language of either the defendant or the witnesses. Therefore, the clarity of communication in INS hearings depends heavily on the competence of the interpreter (Berk-Seligson, 1990). States characterized by linguistic diversity, such as California, Florida, Illinois, New York, New Jersey, and Texas have made ample use of interpreters to serve the needs of persons who appear in court. Interpreters play a consequential role, since they represent a bridge between the defendant, the witnesses, the attorneys, and the judge.

Defendants who have been charged with a violation of immigration law must appear in front of a judge to contest or concede the charges against them. The fact that INS courts do not use juries means that the defendant's testimony and any judgments as to its credibility lie in the hands of the judge, who will make the ultimate decision in each case. The judge is both jury and

adjudicator, since there is no jury present. The judge co-constructs the defendant's testimony by guiding the dialogue in the cross-examination. This construction of the case may be achieved through the use of particular linguistic features that may have an impact on the outcome of the testimony.

The outcome of a defendant's case rests also in the hands of the interpreter and the ability of the latter to convey meaning accurately. If the interpreting process is faulty, misunderstandings can easily arise that may also affect the outcome of the case. Susan Berk-Seligson (1990), for example, in her study of the bilingual courtroom, finds that interpreters frequently add politeness when translating. In initiating a cycle of politeness, the interpreter introduces registers that were not used by the witness, thereby creating confusion (Berk-Seligson, 1990). In my preliminary research, I observed 10 INS hearings. In these hearings, I observed interpreters changing not only the judge's and the defense and trial attorneys' questions, but also the interviewee's answers. Both types of interpreting mistakes went unnoticed by the judge most of the time. In such situations, defendants could be placed at a disadvantage, since their actual testimony and that of the witnesses have been changed by the interpreter.

Furthermore, immigration interpreters not only help construct interviewees' testimony, they often change the pragmatic force of these interviewees' testimony, just as they change the pragmatic force of attorneys' and judges' questions (Berk-Seligson, 2002). This intrusion turns interpreters into active members of the fact-finding immigration proceeding. I observed that, sometimes inadvertently and sometimes purposely, interpreters come to play roles similar to those of immigration judges and attorneys. Interpreters use linguistic strategies such as borrowing and literal translation to fill cultural and linguistic gaps, which therefore become the locus of languages in contact. Furthermore, by introducing polite discourse and repair

mechanisms, eliminating interviewees' hesitations or introducing them, coaching interviewees, using misleading calques, and manipulating grammar and vocabulary, interpreters draw attention to themselves.

The main objective of this study is to explore the impact of immigration interpreters on the testimony in Spanish-English bilingually conducted INS hearings in one U.S. immigration court. Specifically, I analyze the performance of nine immigration interpreters. I identify the precise linguistic strategies they employ when interpreting and determine, using conversational and other discourse analytical approaches, how they become active members of the proceedings. These INS hearings take place in a court located in a large northeastern city.

1.2. IMMIGRATION JUDGES

1.2.1. Authority and Definition

The *Immigration and Nationality Act of 1952 (INA)* defines the term *immigration judge* as an attorney whom the attorney general appoints as an administrative judge within the Executive Office of Immigration Review, qualified to conduct specified classes of proceedings, including hearings under Section 240¹. As for the authority of the immigration judge, the INA states that “the immigration judge shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the alien and any witness” (INA, 1952, § 240, (1) p.158). An immigration judge (IJ) conducts proceedings to decide the inadmissibility or deportability of an immigrant. “The immigration judge shall have authority (under regulations prescribed by the attorney general) to sanction by civil money penalty any action (or inaction) in contempt of the judge’s proper

¹ Section 240 refers to removal proceedings (INA [8 U.S.C. 1229a] p. 158).

exercise of authority under this act” (INA, 1952, § 240, (1) p.159). Because immigration hearings do not have a jury, the immigration judge assumes the role of both judge and jury.

1.2.2 Duties of Immigration Judges

According to *Immigration Law and Procedure* (2001), prior to February 15, 1983, both immigration judges and the chief immigration judge were officers of the Immigration and Naturalization Service (INS), and responsible to the commissioner of the INS. Effective February 15, 1983, these officials were transferred to a new Executive Office for Immigration Review (EOIR), operating under the general supervision of the associate attorney general. The director of the EOIR is responsible for the general supervision of the Board of Immigration Appeals (BIA) and the chief immigration judge. The chief immigration judge, in turn, is responsible for establishing operational policies; for the general supervision, direction, and scheduling of immigration judges; and for evaluating their performance and taking any action that is indicated. The chief immigration judge² is assisted by the deputy chief immigration judges and assistant chief immigration judges in the performance of his duties. These include, but are not limited to (a) the establishment of operational policies, and (b) evaluation of the performance of immigration courts, making appropriate reports and inspections, and taking corrective action where indicated.

The immigration judges conduct removal hearings and perform duties assigned to them by the attorney general. Immigration judges³ exercise those powers and duties related to the conduct of exclusion, deportation, removal⁴, departure⁵, asylum proceedings, and hearings

² *Immigration Law and Procedure*, Title 8, Vol. 1, Code of Federal Regulations, [8 C.F.R. § 3.9] pp. 21-22. Revised January 1, 2001

³ *Immigration Law and Procedure*, Title 8, Vol. 1, C.F.R., [8 C.F.R. § 3.10] p. 22. Revised January 1, 2001

⁴ If an immigration officer or an immigration judge suspects that an arriving alien may be inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3) [1182], the officer or judge shall— (A) order the alien removed, subject to review under paragraph (2); (B) report the order of removal to the Attorney

regarding disciplinary proceedings⁶ that the attorney general may assign them to conduct. Regulations that are to be followed by immigration judges are set forth in *Immigration Law and Procedure* (2002) in the *Code of Federal Regulations*. These rules are promulgated to assist in the expeditious, fair, and proper resolution of matters coming before immigration judges.

1.3. IMMIGRATION HEARINGS

In general, a proceeding commences when a charging document is filed with the immigration court. A charging document is the written instrument that initiates a proceeding before an immigration judge (*Aliens and Nationality*, Code of Federal Regulations, Title 8, Volume 1, CITE: 8CFR 3.13, 2001, p.22). The charging document must include a certificate that indicates the immigration court in which the charging document is filed. However, no charging document needs to be filed with the immigration court in order to commence bond proceedings. The rules do not specify the particular immigration office where the filing is to occur, but they do state that the filing must be made at the appropriate Immigration Judge Administrative Control Office. Filing is defined as the actual receipt of the document in the appropriate immigration court.

General; and (C) not conduct any further inquiry or hearing until ordered by the Attorney General. *The Immigration and Nationality Act*, Sec. 235, [8 U.S.C. § 1225] (c)

⁵ The term depart from the United States means depart by land, water, or air: (1) From the United States for any foreign place, or (2) from one geographical part of the United States for a separate geographical part of the United States: Provided, That a trip or journey upon a public ferry, passenger vessel sailing coastwise on a fixed schedule, excursion vessel, or aircraft, having both termini in the continental United States or in any one of the other geographical parts of the United States and not touching any territory or waters under the jurisdiction or control of a foreign power, shall not be deemed a departure from the United States (*Immigration Law and Procedure*, Title 8, Vol. 1, C.F.R., [CITE: 8 C.F.R. § 215.1] p. 397, Revised January 1, 2001).

⁶ *Immigration Law and Procedure*, Title 8, Vol. 1, C.F.R., [8 C.F.R. § 3.12] p. 22, Revised January 1, 2001

1.3.1. Venue

Hearings are ordinarily conducted in the office of the immigration court where the INS files a charging document. The immigration judge (IJ) may change the venue on motion of the parties after a charging document has been filed. The considerations are as follows:

- a) The IJ may change the venue only upon motion of one of the parties, after the other party has had an opportunity to respond.
- b) The venue is determined based upon administrative convenience, expeditious treatment of the case, location of witnesses, and cost of transporting witnesses to a new location. (Code of Federal Regulations, Aliens and Nationality, 2001, p.22)

1.3.2. Conduct of the Hearings

Immigration hearings are ordinarily open to the public. The IJ may place reasonable limits on the number in attendance, with priority given to the press, and may also limit attendance or hold a closed hearing for the purpose of protecting witnesses, parties, or the public interest. While immigration hearings are ordinarily conducted in person, hearings before an IJ may be conducted by telephone under certain circumstances. Videoconference hearings may be conducted at the immigration judge's discretion at any time without the consent of the parties.

Testimony is tape recorded by the immigration judge and becomes part of the official record. No other recording of the proceedings by photographic, video, electronic, or similar recording device is permitted. This practice is designed to ensure that only one recording of the proceedings will be made and to prevent disputes regarding the completeness of unofficial recordings from arising. Attorneys may listen to the official tapes of proceedings; they are furnished with transcripts if the case is appealed. All testimony at immigration hearings is given under oath, which is administered by the IJ. When an interpreter is used, the interpreter must

swear under oath to interpret accurately, with the exception that no oath is required if the interpreter is an employee of the U.S. government.

1.4. INTERPRETERS

1.4.1. Historical Background

During the 1960s and the 1970s, there arose a growing consciousness of language rights. During this time, laws were passed to ensure equal access of linguistic minority groups to political, legal, educational, and employment institutions in the United States:

A non-English speaker's right to a court interpreter during his or her trial is not a language right, but simply guarantees the right to equal access to the legal system. The court interpreter allows the non-English-speaking individual to enjoy due process and equal protection under the law. (Dueñas González, Vásquez, & Mikkelsen, 1991, p.37)

The profession of interpreting began informally and without any legal or ethical guidelines for interpreters, which gave rise to many discrepancies in the way they handled similar situations. With the evolution of professional associations, interpreters arrived at standard approaches to such problems. The increasing use of interpreters in courts, in the legal profession, and in the judiciary led interpreters to examine issues in interpreting from this perspective, and consequently to develop guidelines in these areas as well (Dueñas González et al., 1991).

1.4.2. The Court Interpreters Act

The Court Interpreters Act was passed by the U.S. Senate and the U.S. House of Representatives and signed into law by President Carter on October 29, 1978, as Public Law 95-539.

This bill mandates the use of qualified interpreters in any criminal or civil action initiated by the United States in which a defendant or witness "...speaks only or primarily a language other than the English language...so as to inhibit such [a] party's comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witness' [sic] comprehension of questions and the presentation of such testimony" (Court Interpreters Act, 1978, §1827(d) 1-2. (Dueñas González et al., 1991, p.57)

More specifically, this act stipulates the provision of certified interpreters to those who are unable to comprehend the language of the proceedings or the charges in any criminal or civil case that is initiated by the federal government. It recognizes the need for quality interpreting and calls for the certification of interpreters by objective testing, helping to increase awareness of the importance of the court interpreter's role in the administration of justice for limited-English and non-English-speaking and hearing-impaired populations. The law also provides for fee schedules for interpreting services. It recognizes the need, and right, of defendants to comprehend the entire proceedings and to communicate with their attorney in order to allow full participation in their own defense. It also mandates the use of interpreters in bankruptcy courts and federal court settings (Dueñas González et al., 1991).

1.4.3. Translating vs. Interpreting

According to Roseann Dueñas González et al. (1991), translation refers to the general process of converting a message from one language to another in written form. Interpretation denotes the oral form of the translation process. The critical difference between translating written messages and interpreting oral ones is the presence of the interpreter, who enables the judge and jury to communicate with the non-English-speaking witness or defendant. The interpreter is there for both the speaker and the listener. The interpreter also participates in dialogues in which a speaker is addressing a listener with the intent of eliciting a particular reaction. Another major difference is the time constraint. Translators have time to reflect and

make corrections and changes so as to improve the accuracy of their output, whereas interpreters “must instantaneously arrive at a target language equivalent, while at the same time searching for further input” (p.295). Professional translators and interpreters assist their clients in overcoming language barriers by successfully converting written or oral messages from one language to another in a seemingly effortless operation. The reader or listener’s lack of awareness of the presence of an interpreter is a measure of this success. That is to say that the translator or interpreter does the job so well that the individual becomes invisible (Dueñas González et al., 1991).

1.4.4. Goals for Court Interpreters

González (1989) states that the court interpreter should provide the legal equivalence, via an appropriate interpretation, of any statements that are either spoken or read in court (as cited in Dueñas González et al., 1991). This interpretation should be from the second language into English or vice versa. The Federal Judicial Center (1989) demands that interpreters be able to translate with exactitude and to accurately reflect the speaker’s tone, nuances, and level of formality (as cited in Dueñas González et al., 1991). Court interpreters are not permitted to provide a summary or a general idea of the original message. They are required to “interpret the original source material without editing, summarizing, deleting, or adding, while conserving the language level, style, tone, and intent of the speaker, or to render what may be termed the **legal equivalence** of the source message...” (Dueñas González et al., 1991, p.16). The interpreter’s ethical standards and responsibilities are as follows:

1. The interpreter shall render a complete and accurate interpretation.
2. The interpreter shall remain impartial.
3. The interpreter shall maintain confidentiality.
4. The interpreter shall confine himself or herself to the role of interpreting.
5. The interpreter shall be prepared for any type of proceeding or case.

6. The interpreter shall ensure that the duties of his or her office are carried out under working conditions that are in the best interest of the court.
7. The interpreter shall be familiar with and adhere to all of these ethical standards, and shall maintain high standards of personal and professional conduct to promote public confidence in the administration of justice. (Dueñas González et al., 1991, p.475)

1.4.5. Need for and Use of an Interpreter

According to the *INS Examination Handbook* (2001), if the person being questioned is other than an English-speaking person, INS requires that the services of an interpreter be provided. Even if the interviewee is willing to proceed without an interpreter, the IJ should defer further action until an interpreter is available, especially if there is any doubt about the interviewee's linguistics abilities in the English language. The interpreter may or may not be an employee of the INS. Interpreters who are employees of the INS will simply be identified for the record without an oath. The examination handbook states that interpreters should be identified for the record, and questioned with regard to their ability to speak and to translate into English the language of the person being questioned, and vice versa, if the interpreter is not an INS employee. Also, the record should reflect the questions and answers concerning the respondent's need for an interpreter. When an interpreter is used, the record should show that the interpreter and the interviewee have conversed in the latter's native language and so have determined that they understand one another. This practice is especially important when the native language of the interviewee has many dialects, as with Chinese. The record should also indicate what language or dialect is being used in the questioning. The IJ has the task of checking from time to time during the questioning to make certain that the interpreter and the person being questioned understand each other. These checks should also appear in the record (*INS Examinations Handbook*, 2001, p.100).

1.5. IMMIGRATION INTERVIEWS AND INTERROGATIONS

According to the *INS Examination Handbook* (2001), interviews and interrogations differ in terms of the manner and degree of questioning. An interrogation is a detailed and formal questioning of a witness, usually one who is the subject of an investigation, one who is suspected of having committed an offense, or who may be reluctant to make a full disclosure of some information in his possession that may be pertinent to an investigation. It is a detailed and formal questioning. Special techniques, psychological stratagems, and cross-examinations may be employed. In contrast, an interview is an informal questioning of a witness or other person who is believed to have knowledge of the matter under inquiry that may be of official interest to an immigration officer, and is usually of a more informal nature than an interrogation. The distinction is often one of degree only, since an interview may develop into a thorough interrogation. Normally, the result of the interview or interrogation is recorded in writing.

1.5.1. Language and Questioning Strategies

Language has long been a concern of the legal profession (Shuy, 1993), whether in oral or written form. This is particularly true in the area of immigration, in which linguistic strategies are explicitly identified as important tools for interrogation. The *Examinations Handbook* states that immigration officials need to be multi-faceted, since questions often deal with topics of great sensitivity to the subject. The manual also states that officials must endeavor to gain subjects' confidence so they will volunteer the information sought. There will be times when this is not going to be possible; therefore, the manual states that officials may have to rely on force of personality or even trickery, along with persistence and other qualities, to obtain the required information. Also, creating a mood that is conducive to eliciting the information needed is a feature of both interrogating and interviewing. In the *INS Examination Handbook* (2001, p.92),

the terms *interrogation* and *interview* are used interchangeably. In both cases, the INS official must master techniques that will maximize the chances of obtaining the needed information.

Some of these techniques are listed below:

Sympathetic Approach: An offer of friendship or small kindness may win the subject's cooperation. Understand and sympathize.... (p. 93)

Friendliness: Assuming that the subject is willing to admit the truth if treated in a friendly manner, come across as the helpful advisor.... (p.93)

Afford the Subject an Opportunity to Lie: When an individual refuses to be truthful and there is a good cause, i.e., a counterfeit visa or passport, ... ask detailed information about the subject's life, work, family, etc., avoiding any mention of the immigration problem.... Be aware of the PHYSICAL MANIFESTATIONS OF GUILT [sic]. These include the sweating of the hands...a flushed face...a pale face...a dry mouth.... (p.93)

Acting Ability: The ability to play the role of an actor comes into play here. If during questioning an officer must act angry or sympathetic in order to obtain the needed information, it is justifiable so long as the official stays within the bounds of reason and good common sense. (p.94)

Correct Language: ...The use of profane or vulgar language should be avoided. It serves only to take away from effectiveness as an interrogator and antagonizes the subject. What is meant by language is that officers must talk on a par with the subject's cultural level.... If slang is appropriate and the subject responds well to it, then use it WITHIN REASON [sic]. (*Immigration Law and Procedure, 2001, INS Examinations Handbook*, pp. 93-95)

Whereas statutes and judicial decisions are all expressed in writing, interviews and interrogations are conducted orally. The ways in which language can be used to form questions is of particular interest to legal professionals in the courtroom. Richard Frankel (1990) points out that questions can be classified as turns, or utterances that indicate doubt, uncertainty, or lack of information on the part of the speaker. From a speech process perspective, questions are utterances that perform various sorts of tasks in requesting that a hearer clarify, reiterate, confirm, supply information, and/or repair the content and sense of what was previously said (Frankel, 1990). From a

structural organizational point of view, questions and responses are bound together in a specific order:

As has been elaborated by Sacks in his work on the organization of conversational activity, questions and responses are linked in time and structural organization via a set of conventional rules that provide the resources and constraints upon which subsequent actions are seen as appropriate or not. From a sequential point of view then, questions may be seen as one component of a formatted device for limiting, obliging, and in some cases demanding, what the conditions for subsequent actions will be. (Frankel, 1990, p.234)

Questions and answers have a well-defined order and a specific structure. This organized talk requires a speech exchange system in which a questioner imposes on an answerer an array of obligations stated in the questions.

Such organized talk is not present in casual conversations, in which the types of turns speakers use are free. That is to say that there is no need for one person to remain a questioner and for another to remain an answerer in a casual conversation (Frankel, 1990). In an interrogation, however, the types of turns are not free. First of all, the answer seems to be conditioned by the type of question. Second, the answerer is not supposed to question the interviewer. Thus, interviews and interrogations are an ongoing turn-type activity in which relations between the questioner and the answerer are fixed and limited.

1.5.2. Cross-Examination: Definition and Purpose

There are several types of questions that lawyers, prosecutors, and officials use to gather information in a legal setting. Each question provides the interviewee with a hint as to the length and type of answer the question requires (Gudjonsson, 1993). According to Davies (1993), cross-examination is more than asking questions. His definition of this technique is as follows:

Cross-examination is the strategy of words and actions the advocate employs during the presentation of the evidence by the opposition that serves to cast doubt on the opponent's case. (p.3)

The attorney's planning of the right questions to ask the witness, and of a comprehensive strategy for using and presenting the evidence, is a kind of art form. Davies (1993) believes it is crucial for an effective lawyer to have a fundamental understanding of what a trial is, and therefore what cross-examination seeks to accomplish. He makes use of Aristotle's *Rhetoric*, which points out that rhetoric is the use of verbal arts to persuade others to believe certain things (Davies, 1993).

In Aristotle's classification, there are three kinds of rhetoric: political, ceremonial, and forensic. The aim of *political rhetoric* is to persuade a civic decision-maker such as an electorate. *Ceremonial rhetoric* is used to state as eloquently as possible what the listener already understands, as in a funeral oration. The goal of *forensic rhetoric* is to convince a decision maker that events in the past occurred in a particular way (Davies, 1993). Thus, lawyers and judges become experts in the art of persuasion. In legal settings such as trials, persuasion depends heavily on the spoken word. The ability to persuade will affect perceptions of the personal character of the speakers, the credibility of their verbal presentations, the quality of the evidence, and the credibility of the witnesses themselves. In a trial, determination of the apparent truth, of proof or apparent proof, relies on persuasion (Davies, 1993). Forensic rhetoric technique, or the art of persuasion, is of great importance in this study.

Normally, lawyers have the task of persuading and convincing the jury. By weaving together a complete and coherent version of the events in the closing arguments, both attorneys—the prosecutor and the attorney for the defense—attempt to present their party's version as the true story. “The jury is the litigating lawyer's ultimate audience and should be the object of the lawyer's persuasion” (Aron, 1989, p.56). However, because immigration hearings do not have a jury, the immigration judge assumes the role of both judge and jury. Thus, Aron et

al. recommend that attorneys know the character, personality, and idiosyncrasies of the trial judge.

In his book *Trial Techniques*, Mauet (1996) provides a synthesis of the purposes of examination. According to Mauet, there are two basic purposes of examination:

- a. *Eliciting favorable testimony (the first purpose)*. This involves getting the witness to agree with those facts that support your case in chief and are consistent with the theory of the case.
- b. *Conducting a destructive cross (the second purpose)*. This involves asking the kinds of questions that will discredit the witness or his testimony so that the jury will minimize or even disregard them. (p.218)

For Mauet, successful cross-examinations are those that follow a preconceived structure that gives the examination a logical and persuasive order. Cross-examination, which is a basic constitutional right⁷, is seen as a more beneficial technique than direct examination. According to Gibson (1992) “cross-examination is substantially more important in some respects than other trial components” (p.160), since it is thought to be the most effective way to uncover the truth, check dishonesty, and minimize the effect of direct examination.

1.5.3. Cross-Examination Style and Leading Questions

Style refers to traits lawyers should adopt when cross-examining. Gibson (1992) asserts that cross-examiners should be confident and courteous, use simple (that is, non-pretentious) language, cultivate a natural style, focus on only a few topics, and ask bold, unexpected questions. A cross-examiner can gain control of the witness simply by using clear language. The wording of the question has a profound impact on the answer:

Dr. Elizabeth F. Loftus, a research psychologist, has found that questions about an occurrence affected the way a witness remembered what was seen. Changing a single word in a particular question dramatically altered even eyewitness accounts. Thus, she indicates that a question such as “What happened to you in

⁷ Cross-examination is a basic constitutional right, part of the Sixth Amendment right to confront witnesses (Gibson, 1992, p.160).

the wreck [or the smashup]?” will cause people to estimate higher speeds than if the word accident is substituted. The wording of the question defines the parameters of plausible response for the witness. (Kestler, 1992, p.114–115)

Gisli Gudjonsson (1993), in his adapted version of Klein’s (1965) types of open and closed questions, defines open questions as descriptive accounts that require several words for an adequate response. He asserts that they are better used at the beginning of an interview, particularly in cases of victims and witnesses, because the interviewer typically lacks the background information necessary to formulate questions that are more specific (Gudjonsson, 1993). “A closed question...[is one that] can be answered adequately in a few words.... They [closed questions] allow the interviewer to narrow down the focus of the inquiry to the most relevant issues” (Gudjonsson, 1993, p.10). Identification, selection, and yes-no questions are other types. Identification questions require the identification of a person, place, group, or time, for example: What time did you see Mr. X come in? Selection questions are closed-alternative questions in which the subject has to select one of two or more possible responses suggested by the interviewer, for example: Was X armed with a gun or a knife? Yes-no questions can be answered satisfactorily with only yes or no, for example: Did you take the money? (Gudjonsson, 1993).

Various scholars agree that leading questions are the most coercive ones that can be used in examining a witness (Gudjonsson, 1993; Richardson, Dohrenwend, & Klein, 1965). A leading question seems by its wording to lead the witness to the answer the interviewer wants or expects. Such questions contain certain premises (based on prior information) and expectations that limit the response. The interviewer can distort the witness’s response by having either informed or uninformed premises. That is to say, the more knowledgeable the interviewer is about the witness’s background and other salient matters, the more control s/he has over the interview, the

more relevant the questions are, and the better the coverage of the matter under investigation (Gudjonsson, 1993).

Nevertheless, Gudjonsson maintains, leading questions produce distorted responses. Several psychological experiments have shown that subjects' responses change when the verb in the question is changed (Gudjonsson, 1993). As mentioned above, one case demonstrated that when the subjects were asked to estimate the speed of cars that had collided, they estimated higher speeds when the verb *smashed* was used instead of *collided*, and *hit* rather than *contacted*. Word choice in leading questions affects memory recall in witnesses and other subjects. Their answers are influenced by the way the question is stated and how it is worded.

Tiersma (1999) agrees that leading questions are a coercive method of controlling a witness:

A leading question suggests that there is only one correct answer, and in essence tries to "lead" the witness to that answer. Leading questions are not directly tied to any particular linguistic form. ... The mere form of a question does not indicate whether it is leading... (McCormick). The whole issue is whether an ordinary man would get the impression that the questioner desired one answer rather than another. (Tiersma, 1999, p.164)

Although Tiersma states that there are no set linguistic features that help a witness recognize whether a question is leading or not, there are common ways to ask a leading question: a) Negative yes/no question: Didn't you call X? b) Tag question: You called, didn't you? c) Rising and falling interrogative affirmative statement: You didn't call? d) Disjunctive questions (The question offers more than one choice as an answer; these choices are mentioned in the question): What was closer to you, the chair or the table? (Tiersma, 1999). This type of questioning is very common in cross-examination. It is highly effective in undermining the accuracy and precision of a witness's testimony (Tiersma, 1999).

Another particular that could influence understanding of the questions posed during cross-examination is the legal language used among lawyers. Tiersma (1999) asserts that lawyers “use language to set themselves apart from the rest of the population and to create group cohesion” (Tiersma, 1999, p.51). However, this cohesive linguistic technique may have negative consequences for the comprehensibility of the questions posed. Major distinctive features of such language are lengthy and complex sentences, wordiness and redundancy, unusual sentence structure, and impersonal constructions (Tiersma, 1999). For this study, impersonal constructions, which include nominalizations and the use of the third person singular, are the most important of these features.

However, these linguistic strategies will not be realized if the interpreter is unaware that they are being used to a particular end, or is unskilled in rendering the questioner’s precise intent in the target language. Introducing changes to the constructions pertaining to these questioning strategies, particularly to impersonal constructions, may make it appear to the hearer that the speaker is being more personal—and polite—than is actually the case. Interpreters need to be aware of the questioning strategies attorneys use in obtaining testimony or conducting a destructive cross-examination so they can maintain legal equivalence by conserving the attorney’s tone, style, and level of formality in the target language.

2. LITERATURE REVIEW/THEORETICAL FRAMEWORK

2.1. TYPES OF JUDGES: STUDIES

Donald Dale Jackson (1974), in his book *Judges*, examines the quality and the character of judges in the American judicial system. He believes that judges are partial umpires who make decisions based on their interpretation of the law (Jackson, 1974). He also believes that judges play an important role in the judicial decision-making process. In general, judges engage in allowing or disallowing a contested piece of evidence, setting bail and revoking it, establishing a trial's ground rules in their decisions on motions, circumscribing and guiding the verdicts of juries with their charges, and selecting the appropriate punishment for convicted criminals (Jackson, 1974). In the case of INS hearings, a judge also pronounces final judgment in non-jury trials. Jackson points out, however, that a judge "may influence the course of justice in a dozen subtler ways—with an eyebrow raised in skepticism, a tone harsh or gentle, a pointed question, or a disparaging comment" (Jackson, 1974, p. vii). Other factors that may be influential in the decision-making process are judges' personality, character, and experiences. According to Jackson, these features are the frame of reference judges bring to the judgment of their peers. Judges are humans whose human reactions may have a profound impact and influence on their decisions and on their interpretations of the law.

2.1.1. Procedure-Oriented and Record-Oriented Judges

In her study of judges taking change of guilty pleas, Susan Philips (1998) finds that judges take both political and ideological stances. She finds diversity in the ways judges interact with defendants—diversity that is related to their interpretations of the written law (Philips, 1998). Her study reveals that judges implement one of two sets of organized strategies when taking guilty pleas. She calls these two strategies *procedure-oriented* and *record-oriented*. For example, procedure-oriented judges elaborate the procedure of change of plea. These judges want to establish that the defendant has knowingly and voluntarily waived the right to a trial, and they accomplish this task by involving the defendant. Record-oriented judges, in contrast, shorten the procedure, involving the defendant as little as possible:

The second group abbreviated the procedure and involved the defendant very little; this group interpreted the written law as requiring that they determine that there was evidence *in the written record* of the case as a whole that the plea met due process law. Thus, this group did not feel the perceived burden to engage the defendant that the first group felt. (Philips, 1998, p. xii)

Philips argues that procedure-oriented judges convey a more egalitarian, friendly, and inviting atmosphere that makes the defendant feel comfortable in an uncomfortable setting and situation. Thus, she demonstrates that within the speech genre of the guilty plea, judges manipulate distinct topical discourse units (procedure-oriented and record-oriented) and ratify ideological positions (Philips, 1998).

2.1.2. Conley and O'Barr's Classification of Judges

John Conley and William O'Barr (1990), in their book *Rules vs. Relationships*, present a model of the interactions between the lay public and the legal system in small claims courts. They analyze litigants' accounts as well as their perceptions, attitudes, and assumptions throughout the phases of the legal process. They encounter litigants who view the law as a

system of rules that evaluates responsibility and discards what is not within the legal frame. These litigants are considered to be *rule-oriented*. The *relational-oriented* litigant, in contrast, gives an account of the legal problem from the standpoint of social relations rather than from the perspective of rules that constitute the law:

In presenting their cases in court, rule-oriented litigants structure their accounts as a deductive search for blame. Every injury is presumed to have a human agent as a cause. Alternative theories of responsibility are mooted and disposed of until the litigant is finally able to point to the opposing party as the only person on whom responsibility for the events complained of can be plausibly fixed. Rule-oriented accounts thus mesh better than relational ones with the logic of the law and the agenda of the courts. (Conley & O'Barr, 1990, p.59)

Relationship-oriented litigants, on the other hand, construct the presentation of their testimony using unconstrained narratives and without providing specific evidence relevant to the problem they are presenting to the judge.

Conley and O'Barr find that judges can be viewed in terms of four structural components:

a) Judges provide notice of impending judgment when there is no jury present; b) They announce the decision in a case; c) After announcing the outcome, judges provide an explanation of the factual and legal reasoning of the judgment; and d) They give advice. Judges were found also to play an active role in shaping litigants' accounts.

Conley and O'Barr classify judges based on differences in their approaches to the law: 1) Judges who adhere strictly to the law view the law as an inflexible neutral principle and believe their role is to ascertain the right principles for a given situation; and 2) Law-maker judges view the law as a resource rather than a restriction. Referring to the second type, Conley and O'Barr explain:

This type of judge renders judgments consistent with his or her sense of fairness and justice, even to the point of ignoring apparently applicable principles of law or inventing legal-sounding principles to fit the needs of particular cases. (1990, p.87)

Basically, these judges manipulate the rules of the law to advance other values they hold in greater regard than legal precedent; 3) Mediator judges seek justice through the manipulation of procedure. These judges recommend settlement to the parties to avoid judgments that could be difficult to enforce. They seek solutions for both parties; and 4) Authoritative decision-maker judges emphasize the litigants' personal responsibility for decisions. They give the impression that there is no other legal authority beyond their personal opinions:

Such judges often express critical opinions about the in- and out-of-court behavior of the parties, making their approach frequently authoritarian as well as authoritative. (Conley & O'Barr, 1990, p. 96)

5) Proceduralist judges take the time to explain procedure to litigants. This is done in an informal way, reinforcing the informality of the whole procedure in their courts. Trials in informal courts are collaborative, constructed by the judge and litigants. Conley and O'Barr (1990) demonstrate that judges vary considerably in small claims court, a setting that is informal and that lacks the presence of a jury and lawyers. Judges there carry out a variety of responsibilities such as hearing evidence, selecting the appropriate legal category (contract violation, fraud, etc.), recalling the standard of proof for that category, deciding what is credible and what is not, and ultimately, determining a verdict. While judges' legal training, background, and experience help shape them as judges, their legal approaches have an impact on shaping the stories of litigants.

2.2. INTERPRETER INTRUSIVENESS

The goals and standards of interpreters are well delineated in the INS examination handbook mentioned above. Nevertheless, scholars like Susan Berk-Seligson (1999), Ruth Morris (1999), and Sandra Hale (1999) demonstrate in a number of studies that interpreters do

not always comply with their ethical and linguistics responsibilities. Berk-Seligson (1990) concludes that the interpreter in a bilingual courtroom is in reality an obtrusive figure. She presents evidence of the different ways in which interpreters may become intrusive:

Her intrusiveness is manifested in multiple ways: from the introduction of the interpreter to the jury by the judge, to the common practice resorted to by judges and attorneys of addressing the interpreter rather than the witness when they ask their questions, to the need on the part of interpreters to clarify attorneys' questions and witnesses' answers. Included as well are the tangential side-sequence conversations engaged in by interpreters and testifying witnesses, interpreter silencing of witnesses who have begun to verbalize their answers, and interpreter prodding of witnesses when they are not responding appropriately to a question. Together, these intrusions make for judicial proceedings of a different nature. (Berk-Seligson, 1990, p.96)

Berk-Seligson (1990) found in her earlier empirical studies that interpreted proceedings in American federal, state, and municipal courts were not always a faithful version of what had been said in the source language. More recently, Berk-Seligson (1999) finds that interpreters can have considerable impact on the outcome when interpreting leading questions. Leading questions constitute a controlling and coercive tool, enabling attorneys and judges to elicit testimony they hope will be favorable (or unfavorable, as the case may be) for the defendant. Berk-Seligson's findings reveal that court interpreters in judicial proceedings tend to systematically weaken the coercive force of leading questions (Berk-Seligson, 1999). She points out that her focus was limited to study of the interpretation of the pragmatic force of leading questions. She acknowledges that the content of the questions was being conveyed accurately:

If we reflect on the findings, we cannot help but be disturbed to see that even federally certified interpreters make so many errors in interpreting the pragmatic force of leading questions. From the lawyer's standpoint, his coercive questions are being rendered in a less coercive fashion. From the standpoint of the defendant who is listening to testimony leveled against him via the interpreter sitting at his side, the questions he hears are distorted. (Berk-Seligson, 1999, p.49)

She concludes that although these inaccuracies affect the outcome of the testimony, interpreters for non-English speakers are still needed. Her main goal is to underscore the complexity of the interpreter's job in providing accurate interpretation in court. She believes that more attention should be paid to providing interpreters with adequate training and proper working conditions so that they may become experts in this area (Berk-Seligson, 1999).

Morris (1999) examines the problematic circumstances interpreters must face, circumstances that can create confusion and miscommunication, both linguistic and cultural. She "...identifies a tendency by many of the professional figures in the courtroom to consider the interpreter a mere instrument, and by many language-handicapped defendants to view the interpreter as a linguistic and psychological haven" (p.6). Morris coins the term *gum syndrome* to refer to the contrast between these two situations, in which the interpreter is stuck between two extremes: seen as a purely communicative tool with no identity on the one hand, and as the defendant's closest representation of home on the other:

It is thus not normally acceptable in court for an interpreter to point out to an examining lawyer that for cultural reasons a particular form of questioning is either impossible to render in the target language or would be understood erroneously by the non-English speaker; nor for the interpreter to explain the cultural implications of the witness's reply. However, interpreters may at times wish to act in certain ways precisely in order to come closer to the vital goal of achieving enhanced accuracy in their performance. This may include seeking to identify and understand speakers' intentions. (Morris, 1999, p.18)

Morris calls this contrasting effect the gum syndrome because, she feels, the interpreter is like a piece of gum on the bottom of a shoe: ignored, but nevertheless inherently present in the interpretation.

Sandra Hale (1999) examines the different uses of discourse markers found in lawyers' questions during examination-in-chief and cross-examination. She defines discourse markers as words "...such as 'well,' 'now,' and 'see' that are common in everyday oral communication,"

but she also points out that “very few speakers are ever aware of their presence in their own speech” (Hale, 1999, p.57). She finds that these discourse markers are used as devices for arguing and confronting, for initiating disagreement or challenge during examinations, and for maintaining control over the flow of information. However, her data show interpreters omitting and mistranslating these markers, thereby changing the illocutionary force of the utterance. She finds that these apparently unimportant discourse particles can affect the illocutionary act⁸ if they are not interpreted accurately. Moreover, her findings reveal variation in the use of these markers depending upon whether they are used in cross-examination or examination-in-chief:

When found in cross-examination they were generally used as markers of argumentation and confrontation, mostly initiating disagreements or challenges. When found in examination-in-chief, they were mostly used to maintain control of the flow of information, as well as to mark progression in the story-line. (p.79-80)

She concludes that interpreters tend to omit the markers almost systematically, probably because they do not consider them to be consequential. The most relevant consequence of this act is the change in illocutionary force, or strength with which the question is asked.

2.3. THE IMPACT OF COERCIVE LANGUAGE IN THE COURTROOM

The relationship between question and answer goes beyond the type of question the interviewer asks. Lexical selection within the questioning may help or lead witnesses and defendants to constitute the reality the interviewer is trying to represent. Conley and O’Barr

⁸ Austin makes [the distinction] between three kinds of speech act: a LOCUTIONARY act (performing of saying something), an ILLOCUTIONARY act (performing an act in saying something), and a PERLOCUTIONARY act (performing an act by saying something) (Leech, 1983, p.199).

(1998) state that language is the primary mechanism by which people act out the power relations in our society. As Susan Ehrlich (2001) explains:

Hale and Gibbons (1999: 203) distinguish between “two intersecting planes of reality” in the courtroom: the reality in the courtroom itself—what they call the “courtroom reality”—and the reality that comprises the events under investigation in the courtroom—what they call the “external reality.” (pp.36–37)

These two scholars point out that the most common representation of external reality is made through testimonial evidence, which consists of descriptions of the events by witnesses and defendants. Their testimony represents a reflection of their innocence—or of their culpability. Their testimony is indeed an active linguistic construction of the facts. Therefore, word categorization and word choice in the questioning either help witnesses or mislead them into reconstructing and interpreting events according to the interviewer’s preferred scenario.

Ehrlich (2001) confirms that participants in courtroom proceedings negotiate the reality of the facts. More specifically, she cites the example of Danet’s (1980) analysis of a trial in which manslaughter charges were brought over a late abortion performed in Massachusetts, and in which the prosecution and the defense used different words to address the incident. The prosecution used words such as *baby* and *child*, whereas the defense chose lexical items such as *fetus* and *products of conception* in order to mitigate the culpability of the abortion performer. Thus, lexical choices as well as grammatical ones play an important role in mitigating or obscuring the culpability of the accused in some cases. This example shows that linguistic choices may enable participants to reconstruct events according to a particular perspective.

2.4. POLITENESS

According to the *Encyclopedia of Language and Linguistics* (Asher, 1994), the concept of *politeness*, in its broader scope and in ordinary language use, refers to proper social conduct and tactful consideration for others. In its non-technical sense, *politeness* is contrasted with *rudeness*. *The Oxford Dictionary of English Etymology* (Onions, 1966) indicates that the word *polite* dates back to the fifteen century, and is defined as “polished,” “refined,” “elegant,” “correct,” “scholarly,” and “exhibiting a refined taste.” Politeness was then associated with the norms of social conduct dictated by the upper-class societies of those times. The semantic association of politeness with behaviors of the upper classes is even more obvious in the German word *höflich*, the French *courtois*, and the Spanish *cortés*, all of which are adjectival derivatives of nouns for court (German *Hof*, French *cour*, and Spanish *corte*) (Asher, 1994, p.3206).

2.4.1. Historical Background

According to Konrad Ehlich (1992), feudal knights in the West were influenced by the courteous behavior of the secular upper classes or by any leading group within those classes in the Middle Ages. As a result, knights began to distinguish themselves from the common people by professing and using a set of courtly values such as loyalty and reciprocal trust. One would have to follow these values in order to behave appropriately in court, achieve success, or win honors. The courtly knights’ behavior first spread among feudal lords and later spread to a wider social class:

The feudal world of the Middle Ages does not display an unbroken tradition from Greek and Latin antiquity with respect to politeness. Social breaks and upheavals through the course of several centuries have a disruptive effect on its further development. However, in the high Middle Ages a notion of politeness in the narrower sense of the term does crystallise, and simultaneously a terminology is developed, i.e., a concept of politeness, by means of which and in which the members of the court can communicate with one another about the forms of their

social actions. ... By means of the concept of “politeness = courtesy” “the secular upper classes in the Middle Ages, or at least some of the leading groups within those upper classes, find a way of expressing their self-confidence, i.e., that which distinguishes them according to their own feelings” (1936/1969, 1:79). The various expressions mentioned above “point, very directly and far more revealingly than later expressions for the same function, towards a specific social location. They say, ‘This is the way to behave at court.’ Through such expressions it is in the first instance the circles of courtly knights surrounding the great feudal lords who designate [...] what distinguishes them according to their feelings, the specific commands and prohibitions that were first developed at the great feudal courts and then spread into somewhat wider social classes.” (Ehlich, 1992, p.94)

2.4.2. Perspectives on Politeness

Richard Watts (1992) mentions that there are 1,702 definitions of politeness that refer specifically to English society. In the literature of sociolinguistics and pragmalinguistics, the major exponents and interpreters of politeness are Bruce Fraser (1990), Robin Lakoff (1975), Geoffrey Leech (1983), and Penelope Brown and Stephen Levinson (1987). Other scholars have contributed their own interpretations of politeness. The list of these researchers is vast; however, some of these names are worth mentioning: Janet Holmes (1995) analyzed apologies, compliments, and politeness with respect to gender; Shoshana Blum-Kulka (1987) studied requests, both cross-culturally and cross-linguistically; and Gabriele Kasper (1990) revised the dimensions of indirectness as well as the minimization and maximization of pragmatic force.

Fraser (1990) provides a summary of the different views according to which politeness can be categorized. He identifies the following: the social norm view, the conversational maxim view, the face-saving view, and the conversational contract view.

In the *social norm view*, politeness mirrors the historical understanding that each society has of its own particular set of social norms; these norms consist of more or less explicit rules that prescribe a certain behavior, a state of affairs, or a way of thinking in a given context (Fraser, 1990). That is to say that a positive evaluation of politeness takes place when an action is in

accordance with the societal norm and vice versa. This social-normative view of politeness is also linked to the popular notion that the higher the degree of formality, the greater the degree of politeness. However, Fraser (1990) reminds us of Garfinkel's experiment in which the opposite was shown: an increase in formality was interpreted as representing impolite behavior.

2.4.2.1. Lakoff's Rules of Politeness.

Robin Lakoff (1973) adopted H. Paul Grice's *Cooperative Principle*⁹ (CP) in order to account for politeness phenomena. Even though the CP is not related to politeness directly, it has nevertheless provided a basis for other principles such as Leech's Politeness Principle (Márquez Reiter, 2000). Lakoff's contribution to politeness theory was to argue that grammars should not only specify the applicability of grammatical rules but also include pragmatic factors that will allow linguists "to determine which utterances are deviant and respond neither to a semantic nor to a syntactic problem but to a pragmatic explanation" (Márquez Reiter, 2000, p.7). Thus, Lakoff integrates her own rules of politeness with Grice's CP in order to account for pragmatic competence. Her rules of politeness are as follows:

1. Formality: keep aloof
2. Deference: give options
3. Camaraderie: show sympathy (as cited in Márquez Reiter, 2000, p.7)

In essence, Lakoff defines politeness as not trespassing or infringing on another person's space by letting the hearer make his/her own decisions. Thus, "being polite" means avoiding conflict or

⁹ One of the most important contributions to the study of pragmatics has been that of Grice's (1975) Co-operative Principle (CP) and his Maxims of Conversation, which were formulated on the assumption that the main purpose of conversation is "the effective exchange of information" (Grice, 1989, p.28). Grice was merely concerned about the rationality and/or irrationality of conversational behavior rather than any other general characteristics of conversation (Márquez Reiter, 2000, p.6). The cooperative principle: Make your conversational contribution such as is required, at the stage at which it occurs, by the accepted purpose or direction of the talk exchange in which you are engaged. The maxims: Quantity: 1. Make your contribution as informative as is required (for the current purposes of the exchange). 2. Do not make your contribution more informative than is required. Quality: Try to make your contribution one that is true. 1. Do not say what you believe is false. 2. Do not say that for which you lack adequate evidence. Relation: Be relevant. Manner: Be perspicuous. 1. Avoid obscurity of expression. 2. Avoid ambiguity. 3. Be brief (avoid unnecessary prolixity). 4. Be orderly (Yule, 1996, p.37).

friction with the hearer at all moments. Lakoff's account of politeness has been criticized, particularly by Brown (1998), in that she does not offer a theory of politeness within which her rules can be framed. As Rosina Márquez Reiter (2000) points out, "when it comes to reformulation of her rules of politeness, she does not provide a definition of the terms she uses; instead she appears to equate formality with aloofness, camaraderie with showing sympathy" (p.8).

2.4.2.2. Leech's Politeness Principle (PP)

Leech's major contribution to the theory of politeness is his notion of the Politeness Principle. The PP distinguishes between the speaker's illocutionary goal (what he/she intends to convey) and his/her social goal (the position the speaker is taking on being truthful, polite, and/or ironic). Leech, like Grice, developed a principle, the Politeness Principle (PP). Fraser (1990) explains the function of Leech's Politeness Principle as follows:

Politeness does not serve here as a premise in making inferences about S's communicative intention. Thus, the PP does not seem to help in understanding S's intention, although obviously it plays a role in S's choosing the appropriate expression of his communicative intention... Thus, the PP may help to understand reasons S had for choosing the particular content and form of what he said, but usually does not help to infer S's intentions (1983:38–39). (p.225)

Leech identifies six interpersonal maxims that may, in his view, help to ease the tension often created within a speaker who has to determine what and how a message should be conveyed. The maxims are as follows:

Tact Maxim: Minimize hearer costs; maximize hearer benefit. ...
Generosity Maxim: Minimize your own benefit; maximize your hearer's benefit.
Approbation Maxim: Minimize hearer dispraise; maximize self-dispraise.
Modesty Maxim: Minimize self-praise; maximize self-dispraise.
Agreement Maxim: Minimize disagreement between yourself and others; maximize agreement between yourself and others.
Sympathy Maxim: Minimize antipathy between yourself and others; maximize sympathy between yourself and others. (Leech, 1983, as cited in Fraser, 1990, p. 225)

According to Márquez Reiter (2000), “politeness is viewed from the perspective of interpersonal expressiveness, which comprises three sets of principles: Grice’s CP, his PP and his Irony Principle (IP)” (p. 9). The IP may be stated in its general form as follows: “If you must cause offence, at least do so in a way which doesn’t overtly conflict with the PP, but allows the hearer to arrive at the offensive point of your remark indirectly, by way of implicature.” Irony typically takes the form of being too obviously polite for the occasion (Leech, 1983, p.82). The IP allows an individual to be impolite by virtue of being ironic:

In being polite one is often faced with a CLASH [sic] between the CP and the PP, so that one has to choose how far to ‘trade off’ one against the other; but in being ironic, one EXPLOITS [sic] the PP in order to uphold, at a remoter level, the CP. (Leech, 1983, p.83)

According to Leech, a person can be ironic and be perceived as deceiving or misleading the hearer, but in fact is “indulging in an ‘honest’ form of apparent deception, at the expense of politeness” (p.83). He acknowledges that the CP and the PP interact with each other in communication. The CP allows the participant to communicate and regulates what he/she says in order to contribute to “some assumed illocutionary or discoursal goal(s)” (p. 82). In other words, the CP enables the speaker to communicate as long as the hearer cooperates in the process of communicating. The PP has the function of maintaining the social equilibrium of the relationship on a friendly basis. Failure to accomplish this social equilibrium would break the channel of communication:

To put matters at their most basic: unless you are polite to your neighbor, the channel of communication between you will break down, and you will no longer be able to borrow his mower. (Leech, 1983, p.82)

Leech’s notion of politeness suggests that one should be more concerned with the addressee than with the speaker. He also points out that his maxims are ranked by degree of importance: the tact

maxim is more powerful than the generosity maxim, and the approbation maxim is more powerful than the modesty maxim, for example. Márquez Reiter (2000) observes that the degree of importance between one maxim and another seems to be unclear. It is difficult to judge how the tact maxim focuses more on the addressee than the generosity one. Leech has also acknowledged that these maxims might vary cross-culturally; nevertheless, he does not explain just how they would vary (Márquez Reiter, 2000).

2.4.2.3. Brown and Levinson's Theory of Politeness.

Before introducing Brown and Levinson's theory of politeness, it is important to trace the development of the notion of *face*. Erving Goffman (1967) defines the concept of face as an individual's publicly manifest self-esteem. According to Goffman, "social members are endowed with two kinds of face: *negative face*, the want of self-determination, and *positive face*, the want of approval" (as cited in Asher, 1994, p.3206). Goffman maintains that one's face is constantly at risk; therefore, any linguistic act within any relational interaction may be viewed as face threatening. Politeness is thus the counterbalance, compensating for this risk of losing face¹⁰. Brown and Levinson (1987) support Goffman's position that all competent members of a society are concerned with the notion of face; that is, the self-image they present to others in their society. They base their theory on the assumption that communication is an inherently dangerous and antagonistic activity:

We make the following assumptions: that all competent adult members of a society have (and know each other to have)

(1) 'face', the public self-image that every member wants to claim for himself, consisting in two related aspects:

(a) negative face: the basic claim to territories, personal preserves, rights to non-distraction—i.e., to freedom of action and freedom from imposition

(b) positive face: the positive consistent self-image or 'personality' (crucially including the desire that this self-image be appreciated and approved of) claimed

¹⁰ Brown and Levinson derived their notion of face from the work of Goffman (1967). To "lose face" means to be embarrassed or humiliated (Brown & Levinson, 1987).

by interactants possessed of certain rational capacities, in particular consistent modes of reasoning from ends to the means that will achieve those ends. (Brown & Levinson, 1987, p.61)

Positive face, then, is the desire one has to be acknowledged, approved of, or appreciated. Negative face, on the contrary, is a person's desire to be left alone, "to be free to act without being imposed upon" (Márquez Reiter, 2000, p.12). Brown and Levinson acknowledge that this notion of face differs from one culture to another with respect to "what the exact limits are to personal territories, and what the publicly relevant content of personality consists in" (Brown & Levinson, 1987, p.61-62). They assume that each member of society is aware and conscious of his/her own public self-image, or face, and aware of that of other members as well. Consequently, this mutual knowledge of public self-image coupled with the social necessity of "orienting oneself to it in interaction" makes the notion of face a universal rule among societies (Brown & Levinson, 1983, p.62). Along with the concept of face, they introduce the concept of *face wants*, which every member knows that every other member desires to have, and which "it is in the interest of every member to partially satisfy." The components of face are as follows:

Negative face: the desire of every 'competent adult member' that his actions be unimpeded by others.

Positive face: the desire of every member that his wants be desirable to at least some others. (Brown & Levinson, 1987, p.62)

Brown and Levinson developed the notion of *face wants* and laid the foundation for the many studies on the concept of *politeness* that were later to be undertaken by myriad scholars. Brown's definition of politeness is as follows:

What politeness essentially consists in is a special way of treating people, of saying and doing things in such a way as to take into account the other person's feelings. On the whole that means that what one says politely will be less straightforward or more complicated than what one would say if one wasn't taking the other's feelings into account. (Brown, 1998, p.83-84)

Kasper (1990) reviews and evaluates current politeness theories with the goal of providing an outline of the major topics in linguistic politeness theory. She examines the different conceptualizations of politeness put forth by various scholars, giving accounts of the contributions of Brown and Levinson (1978); Fraser and Nolan (1981); Lakoff (1973, 1975); and Leech (1983) to the study of linguistic politeness. According to Kasper, these authors “unanimously conceptualize politeness as strategic conflict avoidance. ... In Brown and Levinson’s theory, ... politeness is defined as redressive action taken to counter-balance the disruptive effect of *face-threatening acts* (FTAs)” (Kasper, 1990, p.194).

Leech’s theory of politeness suggests that certain types of communicative acts are in themselves polite or impolite. Brown and Levinson, on the other hand, identify those that may threaten the face wants of individuals. Acts that can potentially threaten face wants are called *Face Threatening Acts* (FTAs): “By ‘act’ we have in mind what is intended to be done by a verbal or non-verbal communication, just as one or more ‘speech acts’ can be assigned to an utterance” (1987, p.65). Requests, orders, threats, suggestions, and advice, for example, represent a threat to the *negative face* of the *hearer* since these acts put pressure on the hearer to do what the speaker has requested in the aforementioned acts. Other acts that threaten the hearer’s negative face include offers, promises, compliments, expressions of envy or admiration, and expressions of strong emotions such as hatred, anger, and lust. Acts that represent an FTA to the *positive face* of the *hearer* include expressions of disapproval, criticism, contempt or ridicule, complaints and reprimands, accusations and insults. These indicate that the speaker dislikes the hearer’s wants, acts, goods, and/or personal characteristics. Furthermore, contradictions, disagreements, and challenges indicate to the hearer that he/she is wrong, and therefore disapproved of by the hearer. The speaker can also show indifference towards the hearer’s

positive face by expressing violent emotions; showing irreverence; mentioning taboo topics; bringing bad news or good news (boasting); talking about emotional or divisive topics such as politics, race, religion, and women's liberation; using improper terms of address; and interrupting disruptively.

Likewise, acts that may offend the *negative face* of the *speaker* include expressing thanks; making excuses; accepting offers; and responding to the hearer's faux pas, unwilling promises, and offers. Acts that offend the *positive face* of the *speaker* are as follows: apologies; confessions; admissions of guilt or responsibility; acceptance of compliments; self-humiliation; breakdown of physical control over one's body, as with falling down, acting stupid, of contradicting oneself; and emotion leakage, as with lack of control over laughter or tears (Brown & Levinson, 1987).

Brown and Levinson detail the different politeness strategies one could use in order to avoid FTAs by performing an act either *on record* or *off record*. An individual goes on record when the communicative intentions of his acts are clear to participants:

On-record performance of FTAs can be achieved without redressive action ('baldly'), or by adopting either or both of two kinds of redress: positive politeness, addressing the hearer's positive face wants, or negative politeness, addressing negative face wants. (Asher, 1994, p.3207)

Going off record means performing an act indirectly. This type of strategy is ambiguous, as "the actor cannot be held to have committed himself to one particular intent" (Brown & Levinson, 1987, p.69). The speaker can achieve this strategy by means of the following linguistic realizations: metaphor, irony, rhetorical questions, understatement, and tautology, "without doing so directly, so that the meaning is to some degree negotiable" (p.69).

Brown and Levinson's notion of *face wants* laid the foundation for studies on the concept of politeness; however, they were also criticized rigorously with respect to their claims as to the universality of their theory. Márquez Reiter (2000) points out that such criticism encompasses more than just the problem of universality. The principle of rationality, the universality of the notion of face, "the universality of their politeness strategies, the rigidity of the politeness scale in relation to their three sociological variables, the neglect of discourse, and the absence of context" (p.16)—all these aspects of their theory of politeness have been criticized.

For Japanese society, by contrast, the overarching principle of social interaction has been conceptualized as 'social relativism', comprising concerns about belongingness, empathy, dependency, proper place occupancy, and reciprocity (Lebra (1976), cf. also Barnlund (1975), Doi (1981)). Given the collective rather than individualistic orientation of Japanese culture, negative face wants seem negligible and cannot account for politeness behaviour. (Kasper, 1990, p.195, as cited in Márquez Reiter, 2000, p.16)

Anna Wierzbicka (1985) also criticizes the Brown and Levinson model for its ethnocentric Anglo-Saxon perspective on politeness. She points out that in Polish verbal interaction, "involvement and cordiality rather than distance and 'polite pessimism' are reflected in strategies of linguistic action" (as cited in Kasper, 1990, p.195). For Wierzbicka, cultural Slavic and Mediterranean values differ from Anglo-Saxon ones; therefore, in her view, Brown and Levinson's theory of the face-threatening act would seem not to be universal to all societies. It is important to point out that Lakoff, Leech, and Brown and Levinson view politeness as a way to avoid conflict. As indicated above, there are other variables that need to be taken into account in creating a theory of politeness that could be applied to all societies.

2.4.2.4 Fraser and Nolen's Conversational Contract View

Bruce Fraser and William Nolen are the major exponents of the *conversational contract* view. For them, politeness is a feature that is expected to be an integral part of every conversation:

The intention to be polite is not signaled, it is not implicated by some deviation(s) from the most "efficient" bald-on-record way of using the language. Being polite is taken to be a hallmark of abiding by the CP [cooperative principle]—being cooperative involves abiding by the CC [conversational contract]. ... Sentences are not *ipso facto* polite, nor are languages more or less polite. It is only speakers who are polite, and then only if their utterances reflect an adherence to the obligations they carry in that particular conversation. (Fraser, 1990, p.233)

Thus, Fraser and Nolan (1981) conclude that although some terms of a conversational contract may be imposed through a convention such as taking turns, participants nevertheless have the possibility of renegotiating and readjusting the rights and obligations they hold toward one another. Each party brings into a given conversation a set of understandings, rights, and obligations that will determine what each participant can expect from the others. Also, various social institutions impose their own sets of conditions that will influence the type of interaction that may take place. For example, a witness is expected to speak only when questioned. Therefore, politeness is to be understood as proceeding from the conversational conditions of the conversational contract society establishes.

In the *conversational maxim* view, a Politeness Principle is proposed as a complement to Grice's Cooperative Principle. The Politeness Principle involves relational goals, its main purpose being to mitigate and reduce any friction in personal interaction (Lakoff, 1975). This view can be seen as the most global perspective on politeness, because acting polite means to act in accordance with the conversational contract at a specific moment in a specific society:

At the outset, the terms of the conversational contract are determined by participants' rights and obligations; however, these may change during, and as a

result of, the conversational interaction itself. What exactly the current terms of the conversational contract are would depend on each participant's assessments of the relevant contextual factors and of the conversational interchange itself. Acting politely, then, is virtually the same as using language appropriately. (Asher, 1994, p.3207)

Leech (1983) has provided the most comprehensive treatment of the Politeness Principle. Lakoff (1973, 1989), Edmonson (1981), and Kasper (1989) have approached this principle in less detail (Asher, 1994). Finally, Brown and Levinson's view of politeness as *saving face* is thought to be the most influential politeness model to date. I will refer to this perspective in detail later in this essay.

2.5. PERSPECTIVES ON DEFERENCE

Jenny Thomas (1999) distinguishes politeness from deference. She claims that one cannot have access to the real motivation of a given speaker, making it difficult to determine whether a person is really being polite or not. She points out that linguists cannot analyze a group with respect to politeness by looking at their linguistic interaction only. According to Thomas (1999), *deference* is often confused with *politeness*, but she believes deference is actually its opposite, first because it is not reciprocal, and second because it often does not represent a personal choice, but instead is embedded in the grammar. She defines deference as "respect we show to other people by virtue of their higher status, greater age, etc." (p.150). In her view, politeness is a way to demonstrate consideration for others. Although she agrees that politeness and deference are both manifested in social behavior, she notes, using linguistic sources, that deference is imbedded in the grammar of many languages and that it differs from one language to another:

Deference is built into the grammar of languages such as Korean and Japanese. It is also found in a much reduced form in the grammar of those languages which have a 'T/V system' —languages such as French, German, and Russian in which there is a choice of second person pronoun: *tu/vous*, *du/Sie*,... In French, for example, you have to make a choice between the pronouns *tu* and *vous* in addressing someone; although it is theoretically possible to avoid the problem by using the pronoun *on*, it would be extremely difficult (and would sound very stilted) to keep this up for long. (Thomas, 1999, p.150-151)

Thomas (1999) points out that speakers of languages that provide morpho-semantic choices are obliged to choose one form over another. In some dialects of Spanish, such as the Costa Rican one, for example, the speaker can choose whether to use *tú*, *usted*, or *vos*. Using these forms signals “either respect or familiarity towards [one’s] interlocutor” (p.151). The English language lacks this form of grammatically encoded deference. Exceptions are honorific address forms such as *Sir* and *Madam*, “which may be used to indicate the relative status of the interactants” (p.151). “As I have indicated,” asserts Thomas, “it is very unusual in English to find deference explicitly grammatically signaled by anything other than address form” (p. 151).

Thomas refers to Matsumoto’s accounts of deference in the Japanese language in order to assert that in Japanese it is impossible to avoid marking the relationship between the speaker and the hearer. The Japanese copula has levels of deference according to the status of the addressee: plain (*da*), deferential (*desu*), and super-deferential (*degozaimasu*) (Matsumoto, 1989, as cited in Thomas, 1999). According to Matsumoto, Japanese people do not have the individual choice of using one form or another. They have to use the form that indicates the status of the hearer, “reflecting the speaker’s ‘sense of place or role in a given situation according to social conventions’” (Thomas, 1999, p.151-152).

Fraser and Nolen (1981) define deference by distinguishing it from politeness. They begin with the notion of the conversational contract, which may be of two types, general or

specific. “General terms ... govern all ordinary conversations, and specific terms ... hold because of the particulars of the conversation” (Fraser & Nolan, 1981, p.95). General terms refer to the basic requirements a speaker and a hearer must meet in order to have a conversation, such as waiting for one’s turn to speak, and speaking with sufficient clarity, not too loudly, and in the same language (Fraser & Nolan, 1981). Specific terms refer to types of illocutionary acts that are permitted as well as to their content. Fraser and Nolan (1981) maintain that although John Austin (1962), Fraser (1975), and John Searle (1977) group illocutionary acts in terms of the intent of the speaker, little is said about the nature of the restrictions on the latter. In other words, every person has the “freedom to perform a certain speech act” (p. 94), but this act is circumscribed by the nature of the conversational relationship. They provide the following example to illustrate the limitations inherent in a conversational contract:

There are no restrictions on anyone against begging that seem relevant; everyone can request from another, though the content of the request may be restricted—I can probably ask anyone the time but cannot ask most people their salary or the state of their mental health or if they have overcome their drinking problem; and most people cannot give orders to others except if this has been negotiated.
(Fraser & Nolan, 1981, p.95)

Fraser and Nolan suggest that a given speaker occupies a specific status in relation to a particular hearer and vice versa. Illocutionary acts will be negotiated and determined on the basis of the relative status of the parties involved in the conversation as well. That is to say that a teacher can tell a student to write a 10-page-long paper, but he cannot “authorize the student to double-park, at least not by virtue of his professorship” (p. 95). People in general engage in the conversational contract in order to operate in a given society. Being polite, as understood by Fraser and Nolan, means “abid[ing] by the rules of the relationship” (p. 95). If a person violates the rules of the conversational contract, this person is therefore considered to be impolite:

The speaker who insists on speaking unclearly, interrupting, switching languages, or perhaps whistling for his dog while the other is speaking is violating general terms of the conversational contract and is viewed by the hearer as impolite. (p. 96)

For Fraser and Nolan (1981), politeness has three characteristics, which can be summarized as follows: a) politeness is a property associated with voluntary action, b) no sentence is inherently polite or impolite, and c) whether or not an utterance is heard as polite is subject to the interpretation of the hearer.

Showing deference means to convey and give status to a hearer. This act creates a “relative symbolic distance” (Fraser & Nolen, 1981, p.97) between the parties involved:

If, in the choice of language, the speaker conveys a level of status that is consistent with the prior agreement, the speaker is heard as being polite; if, however, the speaker errs and conveys an inappropriate level of deference—assigns a status to the hearer below that agreed upon or one too high—then in either case the speaker can be taken to be impolite. (p.97)

Fraser and Nolen acknowledge that deference and politeness are often used interchangeably, but they point out that since deference involves conveying relative status, its inappropriate use is what will result in an impolite utterance. That is to say that an individual who shows deference is attempting to be polite, but may be viewed as impolite if he or she fails to demonstrate the appropriate use of deference. Such a situation would convey an inappropriate assessment of the hearer’s status, either too low or too high; consequently, the speaker would be in violation of the conversational contract (Fraser & Nolan, 1981).

2.6. INDIRECTNESS

2.6.1. Indirectness and Speech Act Theory

The concept of indirectness has been studied within the scope of speech act theory. The main precursor to speech act theory was the work of British philosopher John Austin (1962, as cited in Márquez Reiter, 2000). He was the first to point out that people use language not only to produce correct sentences, to inform, or to obtain information, but also to do things with words. Austin explains that speech acts¹¹ take place in actual situations of language use. Therefore, according to speech act theory, “the minimal unit of human communication is the performance of certain kinds of acts” (Márquez Reiter, 2000, p.31). Austin’s (1962) original speech acts classification was as follows: “*verdictives* (giving a verdict), *expositives* (fitting utterances into the course of an argument or conversation), *exercitives* (exercising power, rights, or influence), *behabitives* (demonstrating attitudes and/or social behaviour) and *comissives* (promising or otherwise undertaking)” (as cited in Márquez Reiter, 2000, p.31).

Austin’s speech act theory holds that utterances that perform an action comprise three types of acts: the *locutionary* act, the *illocutionary* act, and the *perlocutionary* act (Yule, 1996). A locutionary act is the simple act of communicating, of producing meaningful utterances. An illocutionary act is an act that the speaker performs with a function in mind. The effect the illocutionary act has on the hearer constitutes a perlocutionary act. These acts can only be successful if they meet a number of conditions, which are known as Austin’s (1962) felicity conditions. The first condition, the authority condition, requires that the person making the utterance have the authority to perform such an action. The second condition is that the utterance be performed in the appropriate manner. The last one, the sincerity condition, requires that the speaker be sincere when conveying the utterance: ...For a promise, the speaker genuinely intends to carry out the future action, and, for a warning, the speaker genuinely believes that the future

¹¹ Actions performed via utterances commonly known as apologies, complaints, compliments, invitations, promises, or requests (Yule, 1996).

event will not have a beneficial effect (Yule, 1996, p.51). If these conditions are met, the speech act is not only valid, but has an actual effect on the real world.

Searle (1969), who was a disciple of Austin, was a defender and supporter of speech act theory. He not only followed Austin's speech act theory, but also criticized it in order to strengthen it. He classified speech acts into assertives, directives, commissives, expressives, and declaratives:

Assertives describe states and events in the world, such as asserting, boasting or claiming; directives, such as ordering and requesting, direct the addressee to perform or not to perform an act; commissives commit the speaker to a future course of action, such as promising and threatening; expressives express the speaker's attitudes and feelings about something, such as congratulating, thanking, pardoning, apologising; and declarations change the status of the person or object referred to by performing the act successfully, such as sentencing in a court of law. (Márquez Reiter, 2000, p.32)

Searle adapts Austin's taxonomy of speech acts to a new purpose. Searle's classification of speech acts is based on the illocutionary point and *direction to fit* of the utterances. Direction to fit is the function or purpose a speech act must fulfill in order to make the words "fit" the world, or to make the world fit the words. This feature is a psychological state in which the speaker makes the content of a speech act (the words) fit into the social reality (the world) and vice versa. This classification of speech acts based on their function and the intent of the speaker is as follows:

Table 2-1 Searle's five general functions of speech acts.

Speech act type	Direction to fit	S= speaker X= situation
Declaratives	Words change the world	S causes X
Representatives	Make words fit the world	S believes X
Expressives	Make words fit the world	S feels X
Directives	Make the world fit words	S wants X
Commissives	Make the world fit words	S intends X

(Searle, 1975, as cited in Yule, 1996, p.55). Searle's improved classification of speech acts.

Another of Searle's contributions to speech act theory is his distinction between *direct* and *indirect* speech acts. He points out that "the simplest cases of meaning are those in which the speaker utters a sentence that means exactly and literally what he says" (Searle, 1975, p.59). The illocutionary force of the speaker's utterance causes an effect on the hearer by "getting the hearer to recognize his intentions to produce it" (Searle, 1975, p.59). The hearer is able to recognize the speaker's intent "in virtue of the hearer's knowledge of the rules that govern the utterance of the sentence" (Searle, 1975, p.59). However, there are speech acts such as hints, insinuations, irony, and metaphor, in which the meaning of the utterance is different from the speaker's intended meaning:

For example, a speaker may utter the sentence, "Can you reach the salt?" and mean it not merely as a question, but as a request to pass the salt. (Searle, 1975, p.60)

Generally speaking, these kinds of utterances have both literal meanings and indirect meanings. An indirect speech act takes place "whenever there is an indirect relationship between a structure and a function" (Yule, 1996, p.55). A declarative sentence is a direct speech act. The same

declarative sentence could be used to make a request, thereby becoming an indirect speech act. For instance, in the quintessential example, “It’s cold in here,” a declarative sentence is used to request that the hearer perform the action of either turning on the heat or closing a window, which makes it an indirect speech act. Searle (1975) points out that there is a difference between the meaning of the utterance and its use in such forms as “*can you, could you, I want you to* and numerous other forms [that] are conventional ways of making requests” (Searle, 1975, p.76). The point of his argument is that these forms do not have an imperative meaning because they seem to be giving the hearer a choice of performing the request or not (i.e., of attending either to the literal meaning or to the indirect one). Searle believes that the main motivation for using indirect speech acts instead of direct ones is politeness, which has become the most prominent motivation for indirectness in requests. Certain of these forms naturally tend to become the conventionally polite way of making indirect requests” (Searle, 1975, p.76).

2.6.2. Indirectness and Politeness Theory

Indirectness plays an important role in politeness theory. Leech’s (1983) as well as Brown and Levinson’s (1987) work in linguistic politeness reveals that in English-speaking society there is a tendency to avoid direct forms, as they are widely considered to be impolite, and their use may be construed as a face threatening act (Leech, 1983). Indirect utterances, according to Leech, are more polite “a) because they increase the degree of optionality, and b) because the more indirect an illocution is, the more diminished and tentative its illocutionary force tends to be” (Leech, 1983, p.108). In the following list of sentences, the last request appears to be more polite because it is more indirect: 1) Open the door. 2) I want you to open the door. 3) Can you open the door? 4) Would you mind opening the door? 5) Could you possibly open the door? Leech therefore describes politeness “as minimizing impolite beliefs” by means of indirectness.

By the same token, Brown and Levinson (1987) believe that the more imposing and face threatening the act, the more indirect will be the speaker's strategy. Márquez Reiter (2000) mentions that this tight link between indirectness and politeness "could derive from the fact that most analyses of speech acts are based on the English language, where indirect speech acts appear to constitute the vast majority of the conventionalized forms for polite requesting, particularly questions" (p.41).

A study by Blum-Kulka (1987) on indirectness and politeness in requests reveals that indirectness is not always associated with politeness. She argues that Leech's and Brown and Levinson's characterization of indirectness as the highest degree of politeness should be revised. In her study of perceptions of indirectness and politeness from a cross-cultural perspective in different languages (English and Hebrew), Blum-Kulka distinguishes two types of indirectness: conventional¹² and non-conventional¹³. Her results show that "politeness seems to be associated with the former but not necessarily with the latter" (p.132). She claims that in order for a sentence to reach the level of politeness, clarity and non-coerciveness must be in equal balance:

Cultures differ in the relative importance attached to pragmatic clarity, and thus on a very general level, there will be cross-cultural differences in the degree to which considerations of clarity are allowed to dominate and affect notions of politeness. (Blum-Kulka, 1987, p.145)

She acknowledges that politeness can be achieved through conventional indirectness, but asserts that non-conventional indirectness inhibits clarity; therefore, non-conventional indirect utterances (like hints) are seen as less polite cross-culturally.

¹² Conventional indirect requests realize the act by means of systematic reference to some precondition needed for its realization, and share across languages the property of potential pragmatic ambiguity between requestive meaning and literal meaning (Blum-Kulka, 1987, p.141).

¹³ Non-conventional indirectness, on the other hand, is by definition open-ended both in terms of propositional content and linguistic form, as well as of pragmatic force.... Thus, non-conventional indirectness in requests is not different from other types of indirectness in discourse, namely, utterances that convey something more or different from their literal meaning (Blum-Kulka, 1987, p.141).

2.7. STUDIES ON LANGUAGE, GENDER, AND POLITENESS

Critical discourse analysis has been developed to illustrate the specific mechanisms by which domination and subordination are reproduced in daily life (Wodak, 1997; Rathzel, 1997). These relationships, which structure society as a whole, influence the ways in which men and women negotiate professional authority (Rathzel, 1997). The main goal of critical discourse analysis is to identify and analyze the linguistic mechanisms in play and their effects upon those who are objects of oppression through language. Many studies in the field of language and gender, while not all coming from the perspective of critical discourse analysis, have examined how discourse changes in the workplace depending upon the gender of the interlocutors. Gender is a social variable that has also been studied in the context of linguistic politeness. Lakoff asserts that the norms of men's discourse styles are institutionalized in political discourse, and that "they are seen not only as the better way to talk, but as the only way to talk" (Lakoff, 1990, p.210).

Candace West (1998) considers how women and men physicians interact with patients. Other studies in physician-patient communication suggest that the dynamics of speech exchange are central to our understanding of the patient-physician relationship. For example, Douglas Maynard (1992) reports that patients' responses to bad diagnostic news are heavily dependant on the context of discourse in which physicians deliver it. West's focus was to find out how physicians formulate their directives to patients and how the patients respond to their doctors. She found that although doctors generally interrupt patients more frequently than the reverse, when female doctors see male patients, the female doctors are interrupted more often. West also analyzed directive-response sequences in medical encounters. She found that male doctors tend to give aggravated directives that explicitly establish status differences, whereas female doctors

tend to mitigate their commands using directive forms that minimize status distinctions between themselves and their patients. West concludes that women, in constituting the role of physician, do so in such a way as to exercise less interactional power than male physicians typically do in constituting this role (West, 1984).

Ruth Wodak (1997) analyzes Deborah Tannen's (1994) work on women and men's positions in corporations. According to Wodak, Tannen notes that the women she observed in her study tended to give directives to subordinates in ways that saved face for the subordinate. Men who held positions similar to those of the women she observed tended not to give directives to subordinates in the same way the women did. Tannen asserts that being indirect is not necessarily inherent in women's talk. She also cautions against assuming that talking in an indirect way necessarily reveals powerlessness, lack of self-confidence, or anything else about the internal state of the speaker. Indirectness, she notes, is a fundamental element in human communication and one that varies significantly from one culture to another (Wodak, 1997, p. 88).

The women in Tannen's study were more indirect when telling others what to do; however, their reason was to save face for their subordinate interlocutors. Men were indirect as well, but in different ways and in different situations, especially when revealing problems and errors, and when expressing emotions. Wodak concludes that language in the workplace reveals interactional asymmetries in interactions between professionals and laypersons. More specifically, she suggests that the linguistic behavior of women physicians is more closely related to gender patterns than to status roles or discursive rights (Wodak, 1997).

With respect to politeness and gender, Mary Talbot (1998) argues that women have been found to use more politeness strategies than men do in a range of situations and in different

cultures and languages. Brown and Levinson (1987) examined politeness strategies in Tzeltal, a Mayan Indian language spoken in Tenejapa, in the municipality of Tzeltal in Mexico. Their intention was to examine under what conditions and in what situations women actually use more polite expressions than do men. They used the theory of face wants and the concepts of positive face and negative face as analytical tools for their study. They identify "...two ways of showing consideration for people's feelings [that] can be related to a single notion: that of FACE. Two aspects of people's feelings enter into face: desires to not be imposed upon (negative face), and desires to be liked, admired, ratified, related to positively (positive face)" (Brown, 1998, p.84).

Brown explains the concept of positive politeness:

Positive politeness aims to disarm threats to positive face. Essentially approach-based, it treats the addressee as a member of an in-group, a friend, a person whose desires and personality traits are known and liked, suggesting that no negative evaluation of the addressee's face is meant despite any potentially face-threatening acts the speaker may be performing. Especially clear cases of positive politeness include expressions of interest in the addressee ("What magnificent roses you have, Mrs. Jones, where did you get them?"); exaggerated expressions of approval ("That's the most fabulous dress, Henrietta!"); use of in-group identity markers (slang, code-switching into the "we" code, in-group address forms and endearments, as in "Give me a hand with this, pal"); the seeking of agreement and avoidance of disagreement (using safe topics, such as the weather, and stressing similarity of point of view); joking; claiming reflexivity of goals (that I want what you want and you want what I want); claiming reciprocity (you help me and I'll help you); and the giving of gifts, in the form of goods, sympathy, understanding, and cooperation. (p.84)

Brown contrasts positive politeness with negative politeness:

Strategies of *negative politeness*, on the other hand, are essentially avoidance-based, and consist in assurances that the speaker recognizes and respects the addressee's negative face and will not (or will only minimally) interfere with his or her freedom of action. The classic negative politeness strategies are characterized by self-effacement, formality, restraint, where potential threats to face are redressed with apologies for interfering or transgressing ("I'm terribly sorry to bother you, but..."); with hedges on the force of the speech act (using expressions like: *maybe, perhaps, possibly, if you please*) and questioning rather than asserting ("Could you do X for me?"); with impersonalizing mechanisms

(for example, passives) that distance the act from both speaker and addressee; and with other softening mechanisms that give the addressee an 'out' so that a compliant response is not coerced. (p.85)

Based on this theoretical approach to the study of politeness, Brown's study showed that the quality of interaction among women was noticeably different from that among men. The women seemed to be deferent to the men, yet warm and supportive among themselves, using prosodic modifications and rapport-emphasizing expressions to stress their closeness, both in public and at home. In summary, Brown (1998) reports that the women emphasized commonality and appreciation of each other's personality. Men had a much more matter-of-fact and business-like way of treating people. Their greetings were often short and brusque. They lacked "... the elaborate mechanisms for stressing deference as well as for stressing solidarity that abound in women's speech" (Brown, 1998, p.87).

Janet Holmes (1995) provides a definition of politeness from the point of view of gender that takes into consideration the functions of language. In general, Holmes (1995) maintains that language serves two basic functions: referential and affective. In its referential function, it merely provides information. In questions such as *What is today's date?*, the speaker is seeking information, and the language is referential in its function. In its affective function, the language expresses the feelings of the speaker. So, in a sentence such as: *I hate Max*, the function of the language is not referential. What the hearer learns from this utterance is how the speaker feels towards *Max*, and thus such an utterance is "clearly affective in its function" (Holmes, 1995, p.3).

Holmes (1995) defines linguistic politeness as emanating from language's affective or social function. She points out that politeness conveys care or concern for others, and is conveyed linguistically as well as non-linguistically:

In everyday usage the term 'politeness' describes behaviour which is somewhat formal and distancing, where the intention is not to intrude or impose. ...Being polite means expressing respect towards the person you are talking to and avoiding offending them. (Holmes, 1995, p.4)

Holmes agrees with the linguistic theories of politeness of Brown and Levinson, and those of Leech, but she believes that women's utterances are more polite than men's in the sense that women show more concern for the feelings of the people they are talking to. According to Holmes (1995), these differences can be seen in the way both groups make use of the language. She claims that such differences can be explained with reference to psychological, social, and gender-based factors. Briefly stated, women show differences in their psychological orientation toward others. Women tend to focus on making connections, whereas men tend to focus on maintaining autonomy:

Women are more concerned with making connections; they seek involvement and focus on the interdependencies between people (e.g., Chodorow, 1974; Gilligan, 1982; Boe, 1987). Men are more concerned with autonomy and detachment; they seek independence and focus on hierarchical relationships. (Holmes, 1995, p.7)

The linguistic devices men and women use will also be different, depending upon their psychological concerns. Since men will tend to assert control by seeking autonomy, their linguistic choices will demonstrate this, whereas women will use linguistic devices that emphasize "the interpersonal nature of talk" as well as concern for others (Holmes, 1995, p.7). With regard to socialization, she mentions that boys and girls experience different patterns of socialization. As she points out, "in the modern western societies, most girls and boys operate in single-sex peer groups through an influential period of their childhood, during which they acquire and develop different styles of interaction" (p.7). She sees the relationship of "linguistic behaviour to the distribution of power in society" as gender based (p.7). Power and hierarchical

status are important factors in the linguistic choices men and women make and the degree of politeness they use. Holmes defines power as the “ability of participants to influence one another’s circumstances” (p.17). Power in a relationship is “the degree to which one person can impose their plans and evaluations at the expense of other people’s” (Brown & Levinson, 1983, p.77, as cited in Holmes, 1995, p.17). The distribution of such power depends on other variables such as money, knowledge, social prestige, role, and culture: “Whatever the source, high power tends to attract deferential behaviour, including linguistic deference or negative politeness” (p.17).

2.8. RESEARCH QUESTIONS

2.8.1. Linguistic Coerciveness

1. Do linguistic phenomena in the target language renditions of INS interpreters enable these interpreters to play a controlling role when interpreting? If so, how do they go about it? What characteristics does this type of discourse have?
2. Do INS interpreters convey solidarity with interviewees? If so, by what means do they do so? What would account for this?

2.8.2. Turn-Taking and Calques

1. To what extent, if any, do interpreters manage the turn-taking system of the interaction via their choice of syntax and lexical items when interpreting? If they do, how do they go about it? What characterizes this type of discourse?

2. Is an interpreter's level of bilingualism a variable that affects the interpreter's performance and the defendant's understanding of the lexicon introduced by the interpreter?
3. What is the impact on defendants of hearing calques inadvertently introduced by interpreters?
4. What are the potential consequences for monolingual non-English-speaking defendants when interpreters use calques, literal translations, and borrowings?

2.8.3. Politeness

1. Do interpreters use politeness markers to make defendants feel more comfortable and at ease with the interrogation process? If so, when do interpreters do this? In which instances do interpreters add these markers?
2. Are interpreters adding politeness markers in addressing witnesses and defendants? If so, what are some possible reasons for this practice?
3. Does an interpreter's personal choice to add politeness markers represent a means of establishing a new social relationship between the immigration judge or attorneys and the defendants and witnesses? If so, why is that?
4. Is gender a variable in whether interpreters add or omit politeness particles?

3. METHODOLOGY

3.1. METHODOLOGICAL FRAMEWORK: ETHNOGRAPHY OF SPEAKING

An ethnographic methodology enables the researcher to investigate patterns of language and speech activity in the context and environment of the speech event. Ethnographic explanations are descriptive and interpretive in nature. The researcher describes the details and variables that surround the speech or linguistic phenomena and that serve to frame them. Ethnographic accounts are interpretive because it is the responsibility of the researcher to determine the significance of the observed data.

Dell Hymes (1974) stresses the notion that language and community should be studied together if one wants to observe from a cultural or social perspective *the ways of speaking* of a particular group. Hymes founded the approach called *ethnography of speaking*, which is anthropological in that groups and their ways of speaking are studied and described from their own cultural perspective. He explains the importance of analyzing language within its context as follows:

As to basis: one cannot take linguistic form, a given code, or even speech itself as a limiting frame of reference. One must take as context a community, or network of persons, investigating its communicative activities as a whole, so that any use of channel and code takes its place as part of the resources upon which the members draw. (p.4)

The notion of ethnography of speaking served, then, as the methodological framework for my data gathering and for my insights into the language of the interpreters, judges, trial attorneys, and defendants who participated in the immigration judicial proceedings I observed.

The data collection for this study took place in three phases. The first consisted of ethnographic observation, in which I attempted to obtain a detailed understanding of the circumstances surrounding the parties to the proceedings. In the second, I focused on identifying those Hispanic defendants who were going to make use of a Spanish interpreter and approaching them to ask them to participate in my study (as explained in detail in Chapter 4). Those who agreed to participate enabled me to obtain the tape-recorded data I analyzed in the third phase of the research.

3.2. OBJECTIVES

The main objective of this study is to analyze the impact interpreters have on the testimony of defendants and witnesses, the mechanisms by which courtroom proceedings are transformed into bilingual events, and how this transformation influences judicial proceedings. Specifically, I analyze the impact of the interpreter's verbal role and to what extent this linguistic performance coerces and controls the witnesses, defendants, attorneys, and immigration judges' language and its pragmatic force. A secondary objective is to examine the linguistic mechanisms by which interpreters exceed their role by becoming intrusive, and thereby assume the role of active members of the judicial proceeding.

3.3. TYPE OF STUDY

The present study was carried out through unobtrusive ethno-linguistic observation. The observation data were gathered at the Department of Justice Executive Office for Immigration Review in a large northeastern city. INS hearings are open to the public unless the judge states otherwise. This INS District Office sees immigrants of diverse nationalities. I chose this particular INS court because approximately 60 percent of the hearings conducted there involve Hispanic defendants. Researchers who employ the ethno-methodologically based conversation-interaction-analytical approach suggest that any interaction under study be either audio- or videotape recorded. Due to INS regulations, tape recording by anyone other than the immigration judge was not permitted. Therefore, the tape-recorded data to be used for the purpose of analysis was obtained through the Executive Office for Immigration Review, Office of General Counsel, FOIA Unit, Falls Church, VA. This office is the official entity through which lay people can gain access to INS hearings in the form of tapes or transcripts.

3.4. IMMIGRATION HEARINGS ANALYZED IN THIS STUDY

3.4.1. Hearing Categories

Immigration hearings are categorized according to the type of relief the defendant is seeking. An individual may be seeking asylum, cancellation of removal (i.e., deportation), cancellation of voluntary departure, withholding of removal, or approval of legal status in the United States. Failure to obtain the stated goal will result either in the defendant's deportation or in a simple denial of the request. The defendant has the right to appeal a denial (See Appendix

A) within one month following the hearing. I observed and analyzed a total of 40 hearings in the above categories.

3.4.2. Setting and Participants

The speech events, namely the hearings, take place in a regular courtroom. This research was conducted in one immigration court of the Department of Justice Executive Office for Immigration Review. The parties involved are the immigration judge, the defendant's attorney, the government prosecutor, an interpreter, the defendant, and, at times, witnesses. There is no jury or reporter present.

3.5. DATA COLLECTION: ANALYTICAL TOOLS

In analyzing how interpreters achieve control over interviewees, I use conversational and other discourse analytical approaches. Quantitative statistical t-test and qualitative data provide evidence that the interpreters change the pragmatic force of the testimony they interpret.

3.5.1. Conversational Analysis Overview

When we talk about conversation, we could say that we are talking about social interaction. People hold conversations about their personal and academic lives, about their daily routines, and about work and other matters. Husbands and wives, doctors and patients, judges and lawyers, parents and children, all engage in talk-in-interaction, regardless of the topic of conversation. This social interaction may take place in ordinary settings such as coffee shops and libraries or institutional spaces such as courtrooms and classrooms. In its broadest sense, conversational analysis has been used to discover and analyze the patterns of conversations.

Conversational analysts believe that social actions have a natural organization and are meaningful to the parties involved in a conversation. Therefore, conversational analysts study these social actions in their natural setting to examine the structures, rules, organization, and order of such talk-in-interaction. George Psathas (1995) states that conversational analysis (CA) is the study of “the order/organization/orderliness of social action, particularly those social actions that are located in everyday interaction, in discursive practices, in the sayings/tellings/doings of members of society” (p.2). The study of the organization of talk-in-interaction emerged from other disciplines that merit mention here in order to clarify the CA construct and the foundation of its methodology.

3.5.1.1. Historical Background of CA

In the early 1950s, social psychologists observed and studied social interaction. Foremost among them was Bale (1950), who contributed a category system called Interaction Process Analysis whereby units were classified into acts; these acts were then identified by their doers, and by the person to whom these acts were addressed. Each act was analyzed, assigned a specific meaning, and then classified into a category of this pre-formulated system (Psathas, 1995). Such a system enabled psychologists to conceive a “reliable methodology for capturing the details of interaction, formulating it as a ‘problem solving process’” (p.4). Worth mentioning are some of the psychological experiments in which the category system was actually implemented as a problem-solving process, such as one in which Bales (1950) brought participants to a controlled laboratory setting and asked them to discuss a problem. Participants were tape-recorded and observed behind a one-way mirror to record both the audio and the visual aspects of how they discussed and resolved a problem (as cited in Psathas, 1995). Another experiment conducted by

Soskin and Vera John (1963) monitored a married couple through wireless transmitters to record their interaction as it naturally occurred.

In this category system the following assumptions were made in the analysis of experiments:

1. Units of action could be specified;
2. A system of pre-formulated categories could capture the meaning of an act;
3. The category system could be inclusive and exhaustive, that is, every act could be classified as a unit of meaning within the system; and
4. Interaction could be quantified by the reduction of action to units of meaning, as defined within the category system. (Psathas, 1995, p.4)

Social scientists preferred this system because it provided the potential for observation in a controlled setting and for use of an experimental research design.

Conversational analysts are more interested in researching the structure, sequence, and organization of everyday talk-in-interaction than in studying its correctness (Mey, 1993). Conversational analysis is closely linked to the previously mentioned category system in the analysis of units of action and their meaning in social life. However, CA accounts for other features of the conversation that convey meaning as well, such as laughter and silence. CA developed from ethno-methodology. (Taylor & Cameron, 1987, p.99)

Harold Garfinkel, a pioneer in ethno-methodology, was inspired by his examination of the behavior of jurors. He reported that the ways in which jurors managed their deliberations were in accordance with “adequate evidence, reasonable accounting, etc.” (as cited in Taylor & Cameron, 1987, p.100). However, Garfinkel also observed that the methodology that jurors used was based on common sense rather than on legal methodology. This observation gave birth to ethno-methodology.

Ethno-methodology is a methodological tool that helps researchers understand how individuals use their own methodology in social-interactive events. Garfinkel defines ethno-methodology as

...an organizational study of a member's own knowledge of his affairs, of his own organized enterprises, where this knowledge is treated... as part of the same setting that it also makes orderable. (as cited in Taylor & Cameron, 1987, p.101)

Ethno-methodologists are concerned with the type of reasoning individuals use to produce “what they and others in the community will recognize as orderliness in those activities” (Taylor & Cameron 1987, p.101). Ethno-methodologists also attempt to discover what methods or procedures individuals use for such reasoning and how it is organized. Ethno-methodologists assume that individuals share an implicit knowledge of the rules of their societal system that regulate their behavior. The main principles of ethno-methodology that distinguish it from other models of human action are *accountability*, *normativity*, and *intersubjectivity* (Taylor & Cameron, 1987). Ethno-methodologists recognize the presence of rules that could be seen as governing the individual's behavior. However, they believe that the rules themselves do not shape behavior but instead raise awareness of what the consequences of conforming or not conforming to the norm would be for the individual:

... [A]ware of the rule relevant to the situation in which they find themselves, they choose to follow (or not to follow) the rule in light of what they expect the interactional consequences of that choice to be. (Taylor & Cameron, 1987, p.102)

This awareness is shared with the co-interactants, who will judge the speaker's conformity or non-conformity to societal rules. According to ethno-methodologists, speakers are aware of the “accountability” of their behavior (p.102).

Normativity refers to the prescriptive force of rules. This force may or may not be internalized by an individual. Garfinkel believes that individuals are *rule-using* rather than *rule-governed*. The salient point is that their co-interactants view their behavior as a reference to a

rule rather than as conformity to a set rule that in itself guides their behavior (as cited in Taylor & Cameron, 1987).

Another principle of ethno-methodology that is related to normativity is intersubjectivity, or “the means by which individuals participating in the same interaction can reach a shared interpretation of its constituent activities and of the rules to which they are designed to conform” (Taylor & Cameron, 1987, p.103). Thus, one individual’s response to another individual’s behavior may be interpreted as a mutual understanding of such behavior.

The co-interactant may or may not show an understanding of the speaker’s behavior. For instance, if a speaker asks, “*What time is it?*” and the co-interactant responds, “*I’m sorry, I don’t have a watch,*” this response indicates that the co-interactant’s understanding of the speaker’s utterance has led the co-interactant to design his/her behavior to comply with the rule of request (Taylor & Cameron, 1987). Thus, ethno-methodologists study interactions using reflexive accountability as the main principle of their approach. Individuals share societal rules that guide their actions and also their linguistic choices, as recognized by the actors within the conversational interaction. Also, this shared knowledge of societal behavior yields a structure for the turn-taking sequences in the conversation. This structure allows ethno-methodologists to explore the organization of talk-in-interaction using analytical methods. Ethno-methodology thus lays the foundation for the theoretical principles of CA’s methodological approach.

3.5.1.2. Pioneers in the Emergence of CA

The main focus of conversational analysis is the organization and structure of the conversation rather than its correctness. Conversational analysis developed from the late 1950’s through the early 1960’s with the pioneering work of Erving Goffman (1959), Harvey Sacks, Emmanuel Schegloff, and David Sudnow (Psathas, 1995). Scholars were able to study naturally

occurring conversations from a more detailed and analytical perspective with the emergence of the tape recorder. Goffman's (1959) focus is more theoretical and traditional than that of other researchers. He conducted his social-anthropological research via conventional methods of observation (as cited in Psathas, 1995). He pioneered the theoretical interpretation of everyday conversation. Sacks (1964), on the other hand, tape-recorded telephone conversations at the Suicide Center in Los Angeles, which encouraged him to begin an analysis of the opening lines of such conversations and their organization:

In contrast to Goffman, whose prolific conceptualizations often dazzled the reader, Sacks' concern was to remain descriptively close to the phenomena and, if necessary, to use conceptualizations that retained their everyday intelligibility, for example, greetings, asking for a name, closings, openings, and the like; as well as to seek to describe these in formal analytic terms, for example, sequential structures, paired utterances, adjacency pairs and the like. (Psathas, 1995, p.7)

Together, Goffman and Sacks conducted research that helped conversational analysis to emerge as an approach that discovers the organization of social interaction from a natural, local-context based perspective rather than from a theoretical method. The founders of CA established the focus of their research through a critique of the highly theoretical category system developed earlier by ethno-methodologists. Psathas (1995) summarizes their critique of the category system as follows:

1. Category systems, because they were *pre-formed* or *pre-formulated* in advance of the actual observation of interaction in a particular setting, would structure observations and produce results that were consistent only with their formulation, thereby obscuring or distorting the features of interactional phenomena.
2. They were *reductionistic* in seeking to simplify the observer's task by limiting the phenomena to a finite set of notated observables.
3. They *ignored the local context* as both relevant for and inextricably implicated in meaning production, and instead substituted the theoretical assumptions concerning "context and meaning," which were embedded in the category system itself.

4. They were *quantitatively biased* in that they were organized for the production of frequency counts of types of acts, and thereby were willing to sacrifice the understanding of locally situated meanings in order to achieve quantitative results. (p.8)

This critique of the category system helped conversational analysts to identify the latter as a descriptive analysis of the natural organization of conversations. They also assumed that there was an “*intrinsic orderliness of interactional phenomena*” (Psathas, 1995, p.8). The conversational analyst has the task of unveiling the order in the interaction without imposing an order or any other pre-formulated category system. In this way, conversational analysis emerged from ethno-methodology as a separate field of study.

3.5.1.3. Definition and Assumptions of CA.

Mey (1993) has used metaphors to describe how conversation works, what rules are observed, and how sequencing is achieved. According to Mey (1993), conversational structure can be compared with a traffic light in that one of the purposes of conversational structure is to keep the conversation going. There are rules to follow when crossing an intersection to prevent accidents (conversational clashes). Also, in conversations there is a possibility of traffic jams, in which the participants feel themselves grid-locked in sterile verbal exercise (Mey, 1993). Mey explains that as there is road assistance in case of a problem, there are also conversational techniques that can help restore the conversation and keep the conversation flowing through the use of proper speech.

George Yule (1996) compares the structure of conversations to the working of a market economy, since conversation has a cooperative system of resource management (i.e., talking and letting the other talk), as does a market economy. Yule (1996) explains that in a conversation there is a scarce commodity called the *floor*, which is the right to speak. If a speaker has control

of the floor, then he/she has the *turn*. When another speaker wants to have the scarce commodity, i.e., take control of the floor, the issue becomes *turn taking*. Conversations are in accordance with the societal norms, and therefore, this turn-taking system is in accordance with the *local management system* of the society where the conversation is being held.

Yule (1996) states that the metaphor of a market system applies to those conversations in which speakers cooperate and share the floor on an equal basis. According to Yule, there are also instances where conflict could arise in the conversation because a current speaker wants to hold the floor in the conversation. However, the local management system can restore the flow of the conversation through the set of conventions concerning turn taking. Yule's comparison of the structure of a conversation with that of a market economy introduces a group of terms for different aspects of conversation, such as floor, turn taking, and local management system. Before defining each of these constructs in detail, it is important to establish the basic assumptions of conversation analysis:

1. Order is a produced orderliness.
2. Order is produced by the parties in situ; that is, it is situated and occasioned.
3. The parties orient to that order themselves; that is, this order is not an analyst's conception, not the result of the use of some preformed or pre-formulated theoretical conceptions concerning what action should/must/ought to be, or based on generalizing or summarizing statements about what action generally/frequently/often is.
4. Order is repeatable and recurrent.
5. The discovery, description, and analysis of that produced orderliness is the task of the analyst.
6. Issues of how frequently, how widely, or how often particular phenomena occur are to be set aside in the interest of discovering, describing, and analyzing the structures, the machinery, the organized practices, the formal procedures, the ways in which order is produced.
7. Structures of social action, once so discerned, can be described and analyzed in formal, that is, structural, organizational, logical, atypical, contentless, consistent, and abstract terms. (Psathas, 1995, p.3)

These assumptions led conversational analysts to implement an analytical methodology whose main purpose is to describe and analyze social interaction and its organizational features. One such feature is that these social interactions occur naturally. Phenomena selected because of a pre-formulated theory could not be analyzed under the conversational analysis approach.

3.5.1.4. The Turn Management System.

Sacks, Schegloff, and Jefferson (1974) maintain that the organization of talk can be precisely explained by means of a turn-taking system. This turn-taking system refers to the distribution of talk between two parties in a conversation. More precisely, this system refers to the rights of talk as well as transitions speakers use to talk in a conversation. Based on their observations, Sacks et al. believe that the turn-taking system is basic to all conversations. Their model observes the following features of organization in conversations:

- Speaker-changes recur, or at least occur.
- Overwhelmingly, one party talks at a time.
- Occurrences of more than one speaker [speaking] at a time are common, but brief.
- Transitions (from one turn to the next) with no gap and no overlap are common. Together with transitions characterized by [a] slight gap or slight overlap, they make up the vast majority of transitions.
- Turn order is not fixed, but varies.
- Turn size is not fixed, but varies.
- Length of conversation is not specified in advance.
- What parties say is not specified in advance.
- Relative distribution of turns is not specified in advance.
- Number of parties can vary.
- Talk can be continuous or discontinuous.
- Turn-allocation techniques are obviously used. A current speaker may select the next speaker (as when he addresses a question to another party); or parties may self-select in starting to talk.
- Various “turn-constructual units” are employed; e.g., turns can be “one word long,” or they can be sentential in length.
- Repair mechanisms exist for dealing with turn-taking errors and violations; e.g., if two parties find themselves talking at the same time, one of them will stop prematurely, thus repairing the trouble. (pp.700-701)

Every speech exchange should have some of these features, which provide organization and permit the flow of the conversation.

A more detailed analysis of the turn-taking system features has led Sacks et al. (1974) to identify the parts of a conversation. Initially, Sacks noticed in his study of the phone conversations at the Suicide Prevention Center that what speakers said in their turn to talk depended upon what the first speaker had said previously (as cited in Psathas, 1995). He named these types of exchanges *units of talk*. Moreover, he observed that these units were organized based on the change of speaker. “Speaker change occurred such that one speaker produced the first turn and a second speaker produced the next” (Psathas, 1995, p.14). So, a turn can be defined as a change of speaker in the conversation:

According to Sacks, the basic unit of conversation is the “turn,” that is, a shift in the direction of the speaking ‘flow’ which is characteristic of normal conversation.... Furthermore, in normal, civilized, Western-type conversation, conversationalists do not speak all at the same time: they wait for their “turn,” also in this sense of the word. (Mey, 1993, pp.216-217)

Consequently, speakers in a conversation get their right to speak by waiting for their turn to talk. However, a speaker can either give his/her turn to another speaker or try to maintain it. This is called holding the floor: “yielding the right to speak, or the ‘floor,’ as it is often called, to the next speaker thus constitutes a turn” (Mey, 1993, p.217). Turn allocation is a technique speakers use to select the next speaker in a conversation. Another important concept related to turn allocation is the *transition relevance place* (TRP), which is the natural transition or natural break in the conversation that speakers take to breathe, or to pause because there is nothing else to say (Mey, 1993). A speaker uses the TRP either to hold the floor or to give the floor to another speaker of his/her choice. Searle (1992) summarizes the rules governing turn-construction allocation:

The following seems to be a basis of rules governing turn construction, providing for the allocation of a next turn to one party and coordinating transfer so as to minimize gap and overlap. (1) For any turn at the initial transition relevance place of an initial turn construction unit: (a) If the turn so far is so constructed as to involve the use of a current speaker's select-next technique, then the party selected has the right, and is obliged to take [the] next turn to speak; no others have such rights or obligations and transfer occurs at that place. (b) If the turn so far is so constructed as not to involve the use of a current speaker's select-next technique, then self-selection for next speakership may, but need not be instituted. First speaker acquires rights to a turn and transfer occurs at that place. (c) If the turn so far is constructed as not to involve the use of a current speaker's select-next technique, then the current speaker may but need not continue unless another self-selects (2) If at the initial transition relevance place of an initial turn construction unit neither 1a nor 1b operated, and following the provision of 1c the current speaker has continued, then the rule set a-c reapplies at the next transition relevance place, and recursively at each next transition relevance place until transfer is effected. (Sacks et al., 1974, as cited in Searle, 1992, p.15)

These norms show the process speakers go through to hold onto or to give up the floor in a conversation (Taylor & Cameron, 1987).

The management of the conversation also involves prediction of what the other speaker is going to say. For example, speaker A predicts what speaker B is going to say by recognizing the type of utterance to be used in the conversation. This predictability in the sentence is achieved by the classification of the utterances into *adjacency pairs*. Adjacency pairs are pairs of utterances such as question/answer, greeting/greeting, request/offer, and request/denial in which a speaker provides one part of the pair, thereby making the second part of the pair predictable (Mey, 1993).

Adjacency pairs are closely related to the *preference system* concept. After recognizing in the first pair what is going to come next, the hearer has the choice to either accept or reject the speaker's proposition. Therefore, in an invitation, the hearer has the option to accept or reject the invitation. The speaker also knows that the hearer will either accept or reject his/her invitation. It is the hearer's preference to accept or reject an invitation. Such rejection or acceptance constitutes the second part of the adjacency pair (Taylor & Cameron, 1987): "'Preference' is, in

fact, a perfectly appropriate term to use to refer to the differences between two alternative moves. ...” (p.114).

3.5.1.5. Pre-sequences

Attention getter is another relevant construct that arises in conversational analysis. Expressions such as *hey*, *guess what*, or *excuse me* are utterances that are used as “precursors to something else” (Mey, 1993, p.221). These attention getters open the conversation and are followed by *pre-sequences*, which are utterances that lie between the formal content of the conversation and the attention-getting utterance. Some of these pre-sequences are called *enquirers*. They usually precede a request such as *I wonder if you could....* The main function of enquirers is to make clear to the hearer that a speaker is about to pose a request (Mey, 1994). Other types of pre-sequences are pre-announcements, pre-invitations, and pre-threats, such as *watch out*. Finally, another feature that is important to mention is the *back channel*. This is a device that is used to help maintain the flow of the conversation, such as *I see*. According to Mey (1994), these are of great importance in the conversation since they “provide support for the speaker in the form of short utterances” (p. 218).

3.5.1.6. Insertion sequences.

The concept of repair becomes important when speakers do not maintain the contiguity of the adjacency pairs. Conversationists state that the flow of the conversation has to continue, but they are also aware of possible difficulties speakers may encounter that would interrupt the flow of the conversation and necessitate repair. Sacks et al. (1974) define the concept of repair as follows:

First among the variety of repair devices are ones directed to, and designed for, turn-taking problems. No special theoretical motivation is needed to observe that questions such as *Who me?*, the lore and practices of etiquette concerning ‘interruption’ and complaints about it, the use of interruption markers such as

Excuse me and others, false starts, repeats or recycles of parts of a turn overlapped by another—as well as premature stopping (i.e., before possible completion) by parties to simultaneous talk—are repair devices to troubles in the organization and distribution of turns to talk. (pp.723-724)

Sacks et al. examine instances in which the conversation may present difficulties, and likewise disrupt the flow of the conversation itself. They study such devices as repairs, which help restore it. These constructs, drawn from conversational analysis, serve as tools that allow researchers to better analyze the talk-in-interaction.

3.5.1.7. Writing Conventions

The need to describe talk-in-interaction and to replicate what happens in the conversation is the first objective in creating a specific transcription system. This system allows a conversationalist to reproduce in writing those features of talk that are not commonly expressed in normal writing. Conversational features such as laughter, silences, and emphasis are represented by this conversational transcript system, which was designed to mirror the interaction itself. The transcription system commonly used among conversational analysts was developed by Gail Jefferson (1974). This system ensures the capture of overlap speech, turn transitions, and auditory details (as cited in Goodwin, 1981). Conversationalists do not use all of the symbols at once. Some researchers may be interested in only one feature of the conversation. Then they will transcribe only those aspects of the conversation that pertain to their specific interest (Psathas, 1995). The secondary objective of these writing conventions is to ensure that all researchers are able to interpret them. The main transcription symbols for the writing conventions of conversational analysis used in the analysis of the data are as follows:

1. [Separate left square brackets, one above the other on two successive lines, with utterances by different speakers, indicates a point of overlap onset, whether at the start of an utterance or later.

2.] Separate right square brackets, one above the other on two successive lines, with utterances by different speakers, indicates a point at which two overlapping utterances both end, where one ends while the other continues, or simultaneous moments in overlaps that continue.
3. = The equal sign ordinarily comes in pairs—one at the end of a line and another at the start of the next line or one shortly thereafter, and indicates that there is no pause between the end of one speaker's utterance and the beginning of the next speaker's utterance.
4. (0.5) Numbers in parentheses indicate silence, represented in tenths of a second; what is given here in the left margin indicates 5/10 of a second of silence. Silences may be marked either within an utterance or between utterances. ...
5. :: Colons are used to indicate the prolongation or stretching of the sound just preceding them.

These conventional transcription symbols were summarized based on Ochs, Schegloff, and Thompson (1996, pp. 460-465). As mentioned above, Jefferson developed the main transcriptions. Ochs et al. (1996) observed that the symbols change along with technology and adaptation of other work done in conversational analysis.

3.5.2. Discourse Analysis Overview

Many scholars, such as Johnston (2002), Tannen (1989), and Slembrouck (2003), agree that there is no set definition of discourse analysis. Slembrouck (2003) summarizes the essence of discourse analysis:

The term discourse analysis is very ambiguous. I will use it in this book to refer mainly to the linguistic analysis of naturally occurring connected speech or written discourse. Roughly speaking, it refers to attempts to study the organisation of language above the sentence or above the clause, and therefore to study larger linguistic units, such as conversational exchanges or written texts. It follows that discourse analysis is also concerned with language use in social contexts, and in particular with interaction or dialogue between speakers. (§ 2)

In analyzing discourse, a researcher is involved in looking at how language is interrelated with society and its dialogic and interactive aspects in common everyday conversations. Tannen (1989) states that discourse analysis is the study of language. Likewise, Barbara Johnstone

(2002) agrees with Tannen in saying that “discourse analysis is the study of language in the everyday sense in which most people use the term” (p.2).

In a more general sense, discourse analysis can be useful, then, to address questions having to do with linguistic competence, the meaning of words, and what meaning these words have within sentences and utterances. Discourse analysis addresses issues of “how speakers indicate their semantic intentions and how hearers interpret what they hear, and the cognitive abilities that underlie human symbol use” (Johnston, 2002, p.5). In the field of pragmatics, discourse analysis has been useful for interpreting how people use language to perform actions. Although discourse analysis has a broad scope of uses in such areas as anthropology, cultural studies, psychology, communications, and sociology, the uses that are relevant to this study are those related to semantics, pragmatics, and social identification through language:

Discourse analysis is useful in the study of personal identity and social identification, as illustrated by work on discourse and gender or discourse and ethnicity. Discourse analysis has been used in the study of how people define and create lifespan processes such as aging and disability as they talk, how decisions are made, resources allocated, and social adaptation or conflict accomplished in public and private life. To the extent that discourse and discourse-meaning-making, in linguistics and other modes, and ways of acting, being, and envisioning self and environment are at the center of human experience and activity, discourse analysis can help in answering any question that could be asked about human society (Johnstone, 2002, p.7).

Discourse analysis is, then, a method that answers questions of how discourse shapes the world, the language, and the participants; how it shapes other discourses; and what motivates this type of discourse. The data to be analyzed here come from discourse that may take different forms: audio, texts, videotapes, written documents, proverbs, or orally transmitted discourse (Johnstone, 2002). In order to ensure that the analysis of discourse is not a mere speculation of what one thinks others were trying to convey, discourse analysis involves more than one single review of

the text under study. In other words, a discourse analysts needs to revisit the text over and over again, and, therefore, to study the record of a given discourse in the form of text. This record often takes the form of transcripts of tapes or videotapes that must be accurate as to what was said in the discourse, or speech. However, a transcript is only a part of the whole, and the discourse analyst has to take that into account:

A transcript is by necessity a partial representation of talk, and transcribers' decisions about what to include and what to omit have practical and theoretical consequences. (Ochs, 1979a, as cited in Johnstone, 2002, p.21)

Transcriptions of discourse are representations of speakers and their speech. The transcriber has the responsibility to choose wisely the sample that will best represent a given speaker's discourse and world.

3.5.2.1. Different Worldview—Different Linguistic Categories

Linguistic relativism is concerned with how thought can influence language. According to the Sapir-Whorf hypothesis, people see and classify the world depending upon how their language categorizes the world: their experience of the world is “to a large extent unconsciously built upon the language habits of the group (Sapir, 1949, p.162). People are able to categorize the world depending upon how they perceive it, and their perceptions are often determined by the categories their own language provides. Many scholars agree with this assertion up to a certain point. They claim that people are capable of coming up with new categorizations and of other ways of talking that will in turn *influence* the way they categorize things. According to the Sapir-Whorf hypothesis, although the categories provided by each language do influence how its speakers see and construct the world, they do not necessarily *determine* how they see the world (Johnstone, 2002).

Language, then, cannot be detached from culture, because people are immersed and raised in specific and different cultures. Sherzer (1987) states the following about the relationship between language and culture:

It is discourse which creates, recreates, modifies, and fine tunes both culture and language and their intersection, and it is especially in verbally artistic discourse such as poetry, magic, verbal dueling, and political rhetoric that the potentials and resources provided by grammar, as well as cultural meanings and symbols, are exploited to the fullest and the essence of language-culture relations becomes salient. (p.296)

In essence, Sherzer states that people not only build their discourse based on their language, but also on the perceptions, assumptions, and beliefs presented by their culture. A person's rhetoric reveals choices on how to talk, which will ultimately shape who the person is. Likewise, culture reveals the societal influences that constrain the person's choices. Therefore, both perspectives are intertwined and are equally important to discourse analysis.

The following discourse features will be taken into account in analyzing the speech of defendants, interpreters, judges, and attorneys:

3.5.2.2. Anaphora and Indexicality.

Indexicality is also known as *deixis*, which refers to the pronouns used to point to people and things that are in the immediate context. *Anaphora*, on the contrary, is a pronoun that refers to a corresponding noun phrase in the preceding discourse (Norricks, 2001, p.80). These deictic and anaphoric notions correspond to notions of definite and indefinite reference. Karttunen (1976) states that speakers should use the definite pronoun for a discourse referent that is familiar and the indefinite pronoun for a new discourse referent (Norricks, 2001, as cited in Schifffrin, Tannen, & Hamilton, 2001).

3.5.2.3. Speech Acts—Interactional Meaning

In any interaction there will be two types of meaning: the one that is intended by the first person speaking, and the one that the hearer will assign to the message (Tracy, 2002). Therefore, meaning in any interaction will depend on what the participants said, the intentions of the speaker(s), and the effect of what was said on the participants.

3.5.2.4. Metalingual Talk

Metalingual talk focuses on the correctness of a word or phrase. The main function of metalingual talk is to bargain for the most appropriate meaning when there is incongruity in the discourse:

Jakobson's classic treatment of language functions leaves the impression that relatively few utterances exhibit primarily metalingual force. But thirty years of increasingly intense research on naturally occurring conversation have shown that quite a lot of everyday talk is directed at language forms themselves: we are at pains to agree on names and terminology; we work to clarify errors, contradictions, and misunderstandings; we negotiate grammar and meaning, turn-taking and topic choice; we take note of apt phrases, while we poke fun at inept phrasing, and out group (nonstandard) forms. (Norrick, 2001, as cited in Schiffrin et al., 2001, p.89)

3.5.2.5. Preposing.

This discourse feature refers to a phrase that is lexically ruled and that appears to the left of its general position. Generally, it is posed at the beginning of the sentence (Ward & Birner, 2001, as cited in Schiffrin et al., 2001), for instance:

A: Do you have tea?
B: Water I have. Would you like some water?

3.5.2.6. Postposing.

This term stands for any lexical form that appears to the right of its usual position. It is normally placed at the end of the sentence (Ward & Birner, 2001, as cited in Schiffrin et al., 2001, p.26), for instance:

Not far from Avenue DeVilliers there lived a foreign doctor, a specialist, I understood, in midwifery and gynecology.

3.5.2.7. Discourse Markers.

These are short words or phrases used to mark the beginning of a turn or to introduce a new topic, e.g., *so* or *now*, *well* or *y'know* (Brinton, 2001).

3.5.2.8. Highlighting

Highlighting is one of several interactional features that may be used to gain more control over the conversation. According to Owsley and Scotton (1982), the user employs these features to gain control over sequencing information in order to regulate and evaluate the content of the conversation. Highlighting has two aspects: a) *clarifying*, as when the speaker stops the previous turn-taker to clarify facts of the interaction, and b) *underlining*, as when, for emphasis, the speaker repeats a part of the previous speaker's turn. Some other interactional features are *leading*, in which one speaker tries to suggest possible answers to the other speaker, and *interruption*, in which one speaker begins talking before the other speaker is finished (Owsley & Scotton, 1982).

The matters to be examined in the speech events under study, namely, the immigration hearings, are utterances in the form of questions and answers. Some of those answers are lengthy, depending upon the nature of the question (whether the defendants are subject to direct or cross-examination). The analysis of the participants' discourse is approached from a semantic, syntactic, and pragmatic perspective, using the aforementioned conversational and discourse analytical tools.

4. FIELDWORK PROCEDURES

4.1. PROCEDURES FOR ETHNOGRAPHIC OBSERVATIONS

The ethnographic data collection took place over a period of a year, in the spring, summer, and fall of 2003, at an Immigration and Naturalization Service office in a large northeastern city. On an almost-daily basis, I observed and took notes on immigration judicial hearings via unobtrusive participant observation. My ethnographic observations and visits to this immigration office were limited to certain types of hearings. Those hearings known as *detainee hearings* were completely off-limits to me. Detainees, those defendants being held in detention facilities, are completely forbidden to talk to anyone but their attorney. They are not permitted to talk to relatives or to any member of their family present in court before, during, or after their hearing. I could have sought special permission to invite detainees to participate in this study, but it would have been a complicated process. I would have needed approval from immigration officials as well as from the University of Pittsburgh Institutional Review Board (IRB).

I did, however, obtain IRB approval to conduct the present study by obtaining permission from those defendants who had not been detained by immigration authorities. Ultimately I decided not to seek permission to include detainees in this study because I thought it would have been impossible for such persons to give full and informed consent to participate. They might have felt they did not truly have the right to refuse to participate, and I did not want them to feel they were being coerced. Therefore, all data are from hearings of defendants who were not

detained in jail. After a year of fieldwork, I had observed and gathered data on a total of 137 hours and 30 minutes of judicial proceedings.

As mentioned previously, the tape-recorded data used for the purpose of analysis was obtained through the Executive Office for Immigration Review. The tapes of the immigration hearings include the courtroom procedures in which interpreters, judges, and defense and government attorneys make their official appearances. The tapes include preliminary—also known as master calendar—hearings and their corresponding full—a.k.a. individual—hearings. Off-the-record events such as the organizing of exhibits and of *equity* (defined as any type of exculpatory evidence, including witness testimony as well as documentation, for example, of marriage, volunteer work, or efforts at rehabilitation) as well as any type of negotiation between the attorney and the judge were treated as confidential. Therefore, this data was not tape-recorded by the immigration judge for the official record. Although these negotiations were off-the-record, in almost all cases I was able to obtain permission from the immigration judge to stay and listen to negotiations regarding the defendant's case so that I could triangulate my observations.

In the course of one year of collecting data, I spent four months just observing and taking detailed notes of the immigration judicial proceedings, and interviewing immigration interpreters, attorneys, and judges whenever possible. Getting acquainted with the interpreters and judges was crucial to my understanding of the dynamics among the different parties and the ways in which they can influence one another's work. Getting the interpreters, judges, and attorneys to understand the nature and the importance of my study was crucial because they function as gatekeepers. Once I made sure they understood the objectives of my study, I was able to gain their confidence, and they began to introduce me to other defense and government

attorneys and to judges. Then I was able to begin to collect hard data in the form of tape-recorded hearings.

4.2. PROCEDURES FOR SCREENING PARTICIPANTS

Individuals whose hearings were closed for reasons of national security did not take part in this research study; nor did those involved in detainee cases or in hearings for battered children. INS hearings that do qualify for research of this type are the following: asylum, refugee status, cancellation of removal (i.e., deportation), cancellation of voluntary departure, and approval of marriage. Those who were invited to take part in this research study were male and female immigrants of Hispanic backgrounds between the ages of 18 and 60. Children's cases were not open to the public and therefore were not eligible for this study.

To identify eligible participants and obtain their consent I took the following steps:

1. Half an hour or so before the start of a hearing I would introduce myself to the defendant and explain the reason for my presence. The potential participants, the defendants, had already been scheduled for a hearing and normally sat in the waiting room area, sometimes waiting more than an hour for their turn, especially if the immigration judge was running late. I did not contact them prior to their arrival. In some instances defendants walked right in to their hearings. In such cases, I was not able to contact them beforehand to explain the purpose of my study, to assure them of the confidentiality of all participants' identities and of all data pertaining to their cases, and to present them with consent forms.

2. When I was able to talk to defendants, I explained the nature and objectives of my research. I also explained that cases are identified by number and not by name, so that their identities would not be revealed, but that they nevertheless had the right to decline to permit me to obtain the tape-recorded version of their hearing or to observe the hearing process. Defendants had plenty of time to read the consent form and sign it of their own free will or decline to participate. I obtained consent before requesting the tape-recording of a hearing.

3. If a defendant agreed to participate, I would then request the tape-recording of the hearing using its case number, and sit down and observe the hearing in an unobtrusive manner.

Upon agreeing to take part in this study, defendants gave consent, granting me access to the tape recordings of their hearings. I explained to them that the tape-recorded data would be used for the purpose of analysis, and would be obtained from the Executive Office for Immigration Review through the Freedom of Information Act (FOIA). I reassured them, explaining that I was to be merely an observer of the hearing, an unobtrusive participant observer who would not be permitted to ask questions of any party to the hearing; nor would any such party be permitted to ask questions of me. Making sure that defendants understood my role was imperative. I was often mistaken for an interpreter by new defense attorneys and even by government trial attorneys. I needed to make sure that defendants did not think my presence would influence the outcome of their hearing in any way. Defendants considered me to be an expert in the field and sought out opportunities to consult with me after the hearing to ask my opinion on their case and on the interpreter's performance. After the hearing, the participants were free to leave unless the INS judge gave an indication to the contrary.

4.3. PROCEDURES FOR SELECTING HEARINGS

4.3.1. Full Hearings

Judges and trial attorneys classify hearings based on their length. There are two major categories: preliminary hearings, also known as master calendar hearings, and full hearings, also known as individual hearings. A full or individual hearing takes place when all the evidence and witnesses are present and all the parties involved are ready to proceed. A full hearing is considered closed only after the immigration judge pronounces an oral decision, which can be appealed either by the government, as represented by the trial attorney, or by the defense, within a month of the date of the judge's oral decision. Regardless of whether the proceeding involves removal, voluntary departure, or the seeking of asylum due to fear of future persecution, respondents must first have a preliminary hearing, and then a full hearing months later.

4.3.2. Adjourned Cases

There are several reasons why a full, or individual, hearing may be adjourned. The main reasons are as follows:

1. One of the parties to the trial does not show up. This could be the defendant's lawyer, a witness, or the defendant. If the defendant fails to appear in court, the defense attorney must provide a valid reason as to why his/her client did not attend the hearing. Failure to provide substantial justification of the defendant's absence will close the case and the defendant will automatically receive an order of removal, which is a deportation order.

2. Files from the government office are missing or misplaced. The trial attorney must request that the judge adjourn the case, as they cannot proceed until these documents are found.
3. Fingerprints are out of date. Some full hearings take place a year or two after the preliminary hearing, and certain documents, like fingerprints, may be viewed as outdated. Defendants need to keep their fingerprints updated and submit them to the immigration office, especially if they have an application or a hearing pending. If the fingerprints are not current, the defendant must submit new ones, and the hearings may be adjourned at the discretion of the immigration judge.
4. The trial attorney requests that the immigration judge adjourn the case. When a case has been pending for a long time, sometimes for years, a new trial attorney may have been assigned to it in the interim. In such cases, the new attorney may need more time to prepare for the full hearing.
5. The trial takes too long. A full hearing normally takes between two and five hours. Immigration judges typically adjourn those cases that are not resolved by 5:00 p.m., although there are some who may stay as late as 7:00 p.m. to conclude the trial.
6. One of the parties requests a change of venue. Hearings are ordinarily conducted in the office of the immigration court where the INS has filed a charging document. The immigration judge may change the venue on motion of one of the parties after a charging document has been filed. The considerations are as follows:
 - a. The IJ may change the venue only upon motion of one of the parties, after the other party has had an opportunity to respond.

- b. The venue is determined based upon administrative convenience, expeditious treatment of the case, location of witnesses, and the cost of transporting witnesses to a new location. The change of venue adjourns the case automatically.

7. The immigration judge calls in sick.

8. The defense attorney requests that the judge adjourn the case. Ethnographic observation shows that this is a common defense strategy. Defense attorneys often need more time, and immigration judges may consent at their own discretion.

My data collection was made more difficult by the large number of cases that were adjourned for any one of the reasons listed above. Some judges had their calendars filled and had to adjourn a given case for a month, and some for three or four months. This practice made it almost impossible for me to obtain tapes of the final hearings of many of the cases I had observed in the preliminary hearing, because by the time the rescheduled final hearing actually took place more than four months later I had already finished the data collection phase of my research.

4.3.3. Detainee Cases

The immigration and naturalization office in which the fieldwork was conducted also holds immigration hearings for aliens who are in custody in several detention facilities in this area of the state. Some aliens in the custody of any of these detention facilities are asylum-seeking applicants who have attempted to enter the United States with fraudulent documents or without any legal documents through the two nearest international airports. Immigrants who are alleged to have committed any sort of aggravated felony such as kidnapping, rape, theft, or control of or use of illegal substances are also sent to a detention facility. Also, aliens who have non-criminal records but were apprehended during worksite enforcement operations are also detained at any

immigration detention facility. Finally, aliens are detained for failure to comply with a final order of deportation if they are caught after the final date of deportation. Detainees are not permitted to talk to anyone, not even family members who may be seated in the courtroom. While walking to court and during court, they are only permitted to talk to their attorney. Thus, it was impossible to obtain consent to observe detainee cases or to obtain tape recordings of their hearings.

4.4. PRELIMINARY FIELDWORK CHALLENGES

There were several challenges to collecting the data for this study. For the first four months, I spent time observing and interviewing interpreters, judges, and attorneys in order to gain insight into immigration judicial proceedings, the role of each party in the proceedings, and immigration law itself. My first challenge was to gain the trust of the interpreters. Despite my attempts to assure them that I was only a graduate student, many of them had the idea that I was an undercover agent reporting back to the commercial interpreting agency that employed them. This office hires the interpreters and has a contract with several state immigration review offices to provide them with bilingual legal interpreters. Since interpreters saw me taking ethnographic notes while sitting in court, some of them had the impression that I worked for the FBI or some other related agency. It took me about 5 months to gain their confidence. After that, they became very helpful to my research. Most of the interpreters knew the attorneys who regularly worked in that immigration office. They were able to introduce me to these attorneys so I could then gain their trust.

A second challenge was figuring out the dates of the full hearings. As was previously mentioned, I could only have access to certain types of hearings and to certain types of lay

defendants. Although more than half of the cases handled by the field site immigration office involve defendants of Hispanic descent, full hearings in Spanish are not held every day. In the early stages of my data collection I would go to court every day before 8:30 a.m. to check the master calendar, which is the schedule of all the preliminary hearings for all the judges (see Appendix B). There were cases every day; however, each judge had certain days designated entirely for preliminary hearings. In these preliminary hearings, the defendants are all placed together in one courtroom, and are called one after another. Most preliminary hearings are spent almost entirely in off-the-record negotiations, which are not recorded. This meant that tape-recorded data for the preliminary hearings I attended was impossible to obtain, even if these did take place in Spanish.

There were many more preliminary hearings than full hearings. The only way to find out in advance which full hearings would require interpreting in Spanish (and would therefore generate tape-recorded data for my research) was to attend the preliminary hearings and listen for the date the judge set for the full, or individual, hearing of each relevant case so I could return on that date to observe it. This method of data collection worked to some extent, since some defendants were assigned to come back in a month or two for their final hearing. However, in some instances the full hearing was scheduled six to eight months after the preliminary hearing. By that time, I had finished the data collection phase of my research. The length of time between the initial hearing and the final hearing depended upon several circumstances: Sometimes the judge's schedule was already full with other pending hearings; sometimes the attorney requested extra time to bring an expert witness; sometimes the defense needed to wait for a document to be sent from the defendant's native country. Although this delay was very common and I was able

to adjust to it, it did affect my data collection in that it consequently delayed my receipt of the corresponding tape-recorded data.

The interpreters were very helpful in this regard. Eventually, one of them told me to stay until 4:00 p.m. because that was when the clerk would post the next day's schedule. That way, I would know a day in advance when a hearing was to be held and what type of hearing it was to be, and I would be able to determine whether it was even worth it to go to court the next day. After I had done six months of fieldwork, the interpreters offered to contact me either the day before, or before 8:00 a.m. on a given day, to let me know if they had been assigned a full case in Spanish or if it had been cancelled. The interpreters' kindness and willingness to help me collect the data faster helped me considerably. Sometimes there were two or three full hearings on the same day, and although I was aware of all of them, since I was by then well-informed, I was the only fieldworker collecting the data, and it was impossible for me to observe all three at the same time. Therefore, I had to select which hearing to attend, depending upon which judge and interpreter were scheduled for a given hearing. That is, I would choose to observe a judge or an interpreter I had not observed recently.

Another variable that affected my data collection was that some of the hearings I attended or had planned to attend were adjourned. Defendants who failed to appear in court at the appointed time would automatically receive an order for removal, or in other words, be deported. By law, immigration judges have to wait for defendants for 30 minutes. A defendant's failure to appear in court triggers a deportation order even if the defense attorney is present advocating on the defendant's behalf. There were cases in which the defendant was present but the defense attorney was missing. The amount of time judges would wait for the defense attorney fluctuated according to their flexibility and discretion. Some judges were more relationship-oriented,

whereas others were more rule-oriented—that is, that they would abide by the immigration rule. Therefore, defendants’ attendance, as well as that of their defense attorneys, played a crucial role in the data collection.

Hearings running behind schedule were another challenge to the data collection. Typically, hearings would run late because there were too many cases scheduled in one day. In such cases scheduled judicial proceedings did not take place because they had to be adjourned due to lack of time, over-scheduling, or simply because one of the attorneys requested that the case be adjourned for one of the reasons listed above. The most frustrating aspect of this practice for me was that after I had obtained the defendant’s consent to observe the hearing and to obtain the corresponding tape-recording, the case would be adjourned. On several occasions, the time I spent waiting for a full hearing to commence was 4 to 5 hours. Adjournment of a case I had been given consent to observe significantly slowed my data collection.

4.5. ACCESS TO HARD DATA (TAPE-RECORDINGS OF CASES)

4.5.1. Methodological Perspective on the Use of Tape-Recorded Data

Before outlining the steps taken to gain access to the tape recordings of immigration hearings, it is important to state the reasons why data needed to be in the form of tapes. Conversational analysts assume that conversations have order. Their interest lies in the structure of a given interaction (e.g., hedges, pauses, fillers, laughter) rather than that of places, settings, and individuals (Psathas, 1995). In other words, “the orderliness does not depend on particular persons or particular settings” (p.45). The type of data studied in conversational analysis has to

be interactional phenomena¹⁴ that occur naturally rather than in laboratory experiments. The naturally occurring phenomena for conversation analysis comprise such conversations as telephone calls, dinner table talk, police talk, and news interviews. Data are collected through audio- or videotape recording. Tape recordings are advantageous in that the interaction can be played as many times as needed for careful analysis and transcription. Tape recordings also allow the researcher to identify the different domains in the conversation, since these have not been pre-selected. Also, as Psathas states, “it is not possible to simply seek out a particular phenomenon. Rather, a wider net is cast, and many matters remain unstudied but available for later reexamination and discovery” (p. 46). By replaying the tape recordings, researchers can examine the interaction for other features that were previously overlooked: “Thus the phenomena that are discovered are the result of a process of repeated listening/viewing and transcribing” (p.46).

Researchers have to obtain special permission from the involved parties. Participants involved remain anonymous and unidentified to protect their right to privacy (Psathas, 1995). Another important aspect of CA methodology is that researchers do not make assumptions about participants concerning their emotions, beliefs, and thoughts, unless the participants mention them in the course of the interaction. Also, conversational analysts should not include the biographies or past relations of the participants in the analysis of the participants’ conversations. The focus of conversational analysis is the direct examination of the phenomena (Psathas, 1995).

¹⁴ Interactional phenomena have the following characteristics: “1. A visual and/or auditory and/or tactual and/or kinesthetic appearance for the participants in the actual course of their interaction. 2. A spatio-temporal appearance, which includes speech, utterances, silences, and bodily movements; synchronous actions within and between individual persons; and relationships between such synchronous actions; in and as these are situated productions. In simpler terms, interactional phenomena are talk and action in a situation that may include oriented-to features of the settings as well as other persons” (Psathas, 1995, p.48).

The task of the conversational analyst is to identify and study the order and organization of the talk-in-interaction. In so doing, the conversational analyst can identify repeated instances of the systematic occurrence of a given specific feature:

Also, no attempt is made to generalize to similar instances or ones that the researcher claims to know from past experience and knowledge. Recalled or imagined instances are not admissible as proof or support or corroboration of claims about actual phenomena. Rather, only repeated instances of other demonstrably similar empirical instances are admissible, provided these are also available in recorded form. (Psathas, 1995, p.47)

Therefore, the conversational analyst needs to provide evidence that what is being reported actually happened in the conversation.

Data are presented through transcriptions of conversations. Conversation analysts provide the original transcripts of the conversations along with their analyses. “Descriptions and analyses try to note, in detail, how a phenomenon appears in the course of its *actual* production” (Psathas, 1995, p.48). In their quest to discover the patterns and variations in conversations, conversational analysts use a conversational system called a Turn Management System to account for the sequential organization of the talk-in-interaction.

4.5.2. Steps in Gaining Access to Tape-Recordings

While immigration hearings are ordinarily conducted in person, hearings before an IJ may be conducted by telephone under certain circumstances. Obtaining permission from the parties involved was impossible in such instances. Videoconference hearings may also be conducted at the immigration judge’s discretion at any time without the consent of the parties. Videoconferences were normally offered to detainees who were not able to attend their hearings for various reasons. They enjoy the same right of representation by an attorney and access to an

interpreter if needed. Obtaining the defendant's consent in a videoconference hearing was impossible as well.

Immigration judges tape-record the speech event, which is the hearing. They stop the recording at their own discretion, especially when the parties to the case need to negotiate or organize the equity presented in court. Testimony is electronically recorded and becomes part of the official record. No other recording of the proceedings by photographic, video, electronic, or similar recording device is permitted. This practice is designed to ensure that only one recording of the proceedings will be made and to prevent disputes regarding the completeness of unofficial recordings from arising. The tapes of the hearings remain in the INS office where they were recorded. Each office stores its own closed and adjourned cases. Attorneys may listen to the official tapes of proceedings and are furnished with transcripts if the case is appealed. If any of the parties involved, the defense or the government, decides to appeal, the corresponding tapes are sent to the Executive Office for Immigration Review, FOIA Unit, in Falls Church, Virginia. This office appoints a board of appeals that reads the transcripts of the hearings and bases its verdict on its analysis of the written testimonial transcript.

The official tape recording is made in situ and then stored in either office. Making my own tape recordings in the courtroom for scholarly purposes was not permitted. The only way to gain access to tape-recorded data was to request the voluntary consent of a defendant and then persuade this defendant to sign a waiver. After explaining to defendants the purpose and nature of my study, I would ask them to sign two documents: first, the regulatory consent from the University of Pittsburgh Institutional Review Board (IRB), which explains the procedures and possible risks, and the benefits, to those defendants who consented to participate in the study (See Appendix C). The second document was a waiver (See Appendix D) that stated the

importance of their cooperation. By signing, they were agreeing to the release of the tapes of their hearings to me for the sole scholarly and scientific purpose described in the IRB consent form. Defendants' personal information and identity were kept confidential and anonymous, and participants were told that places, names, and dates would be altered to protect their privacy. Each case was assigned an alien identification number. In signing the waiver, participants were also agreeing to provide their corresponding alien number so that their hearing tapes could be easily identifiable by the FOIA Unit by a clerk in the field site INS office.

Once a participant consented to participate in the study, I was able to observe, take ethnographic notes of the speech event, and later submit the waiver to the FOIA Unit in Falls Church, Virginia. Along with the signed waiver, I would send a letter requesting that a copy of the defendant's documents, in audiotape format, be provided to me. The Freedom of Information Act enables researchers who are affiliated with an educational institution and whose request is made for scholarly/academic purposes and not for commercial use to gain access to files, documents, and tapes. My requests were handled under a provision of the FOIA. Each request was assigned a control number that I could cite in any further inquiry about the request. The FOIA Unit would send a letter acknowledging my request (see Appendix E). This letter would inform me of any applicable fees for searching records sought at their respective clerical, professional, and managerial rates of \$4, \$7, and \$10.25 per quarter hour, and for duplication of copies at the rate of \$.10 per copy. Fortunately, there were no fees charged, because the search for the tape recordings did not exceed the expected time of search. Once located, they were sent to me in the form of regular tapes.

4.6. CHALLENGES TO DATA COLLECTION

4.6.1. Attitudes of Defendants

In collecting the data, I faced three main challenges: a) finding the participants, b) obtaining the tapes, and c) transcribing the tapes. As was explained above, finding defendants who would agree to participate was a challenge. First of all, I had to identify them by asking one-by-one if they had a full hearing scheduled for that day. On some days, there were no full hearings at all; this circumstance definitely slowed the process of data collection. Upon identifying potential participants and telling them what my study was about and, as required, its benefits and risks, I always had some defendants tell me to wait and consult their attorney. They were unsure about the nature of my study and whether it would have any impact on their case. Regardless of how much I assured them that there were essentially no risks and that their names and alien numbers, and the names of places, would be altered so as not to identify them, many would refuse to take part in this study. I would talk to their attorneys, and some of them were helpful and supportive. They would read the voluntary consent and they would help me to reassure the defendant that there was no risk involved and that my study was for academic purposes only. Other attorneys refused strongly to have their defendants participate the moment they read that by signing they were granting me access to tapes of their hearings.

Another reason why defendants did not feel comfortable signing the voluntary consent form was simply that they were afraid. Some of them would try to mitigate their discomfort at refusing me by telling me that at the end of the hearing they would consent to sign the waiver. I would wait patiently until the hearing closed to see whether the defendant wanted to take part in the study or not. Sometimes this practice worked, especially when the outcome of the hearing was favorable to the defendant. When the outcome of the hearing was not favorable to the

defendant, most of the time the person would not want to be bothered. I was very sensitive and respectful of defendants' feelings, since a negative oral decision normally means deportation. Occasionally, defendants would still agree to participate despite an unfavorable outcome. Some defendants, along with some defense attorneys, would blame the interpreter for a poor interpreting performance that they believed had caused them to lose the case. In situations like these, both the defendant and the defense attorney would be eager to participate in my study. Both defense attorneys and clients had the firm idea that my presence would regulate the performance of the interpreters and therefore provide them with better interpreting. Most of the time, I concentrated my efforts on trying to obtain voluntary consent prior to the hearing in order to avoid further importunities to either the defendants or their attorneys.

Interpreters would ask me periodically how I was doing in terms of the number of signed consent forms. They wanted to know how many cases I needed to complete the analysis of my data. The interpreters needed to feel comfortable and to make sure that I was not spying on them and that I was not going to report back to their employer, the private interpreting agency. When I told them how difficult it had been to gain the trust of the attorneys and obtain the necessary signatures, and how frustrated I was, almost all the Spanish interpreters, along with one interpreter of Arabic, introduced me to those defense attorneys who regularly worked in that office. Since the defense attorneys already knew the interpreters, once I was introduced I was able to gain the trust of the defense attorneys, and thereby gain faster and better access to the defendants. Although the defense attorneys were not actually able to give me consent to obtain the tapes, gaining their trust helped me gain the trust of their defendants. Most of the time, defendants would ask their attorney if it was okay for them to sign the consent and the waiver. As soon as their attorney said yes, they would consent to participate in my study. This

development did allow me to collect more signatures in less time; however, it had already taken me about 5 months to gain the trust of the interpreters so that they would introduce me to the attorneys. From May through September of 2003, I approached a total of 46 defendants. Only 20 agreed to participate in this study, and 26, or 56.52% declined. From October of 2003 through January of 2004, however, I approached a total of 23 defendants. Twenty agreed to participate, and only 3, or 13.04% declined. This increase in the rate of participation was due almost solely to the efforts of the interpreters on my behalf.

4.6.2. FOIA Unit

Since, as was previously mentioned, tape-recording by anyone other than the immigration judge was not permitted, not even for educational purposes, I had to rely on the FOIA Unit in Falls Church, Virginia to send me tapes. Normally, I would receive a letter of acknowledgement 7 to 10 business days after I had mailed the petition letter. The FOIA Unit would normally take up to 3 weeks to send the audiotapes of the hearings. If this FOIA Unit was unable to locate the documents and needed more than 3 weeks to find them (sometimes 1 or 2 months), they would send another letter notifying me of the status of my Freedom of Information Act request (See Appendix F). The Office of the General Counsel would notify me that they needed a 10-day extension beyond the standard processing time for FOIA requests to consult with agency components. In other words, the FOIA Unit is obligated by law to notify any layperson requesting a document from this office of the whereabouts of the tapes and of the length of time needed to obtain them.

As was mentioned above, the tapes of the hearing could be placed in one of two different offices: the immigration office where the hearings were held (if the case was closed) or the Falls Church, Virginia site (if the case was to be appealed). The FOIA Unit would investigate where

the requested audio documents were and would then make the necessary copies and mail them to me. It would normally take a month from the day I submitted the request for the tapes to arrive via regular mail. However, in some instances it would take 2 months or more. Waiting for the tapes was an ordeal, since the waiting time could fluctuate for reasons beyond my control. There was no way to expedite the request.

4.6.3. Tape Transcription

Once the tapes arrived, the enormous task of transcribing them began. Each case had a minimum of one 90-minute tape and a maximum of eight tapes. Although a 90-minute tape would normally take 12 hours to transcribe, sometimes, depending upon the clarity of the tape and the comprehensibility of the speakers' speech, it would take more than 12 hours. I faced yet another hurdle in my attempts to transcribe the tapes of the immigration hearings: The immigration judges would often increase the recording speed so that more data could be fit on each tape, and money could be saved on cassette purchases. Although this practice may be economical and useful, both to immigration judges and to the Bureau of Homeland Security budget, it was not economical for me, the ethnographer, at least in terms of the time I spent transcribing these tapes. I had to re-tape and edit parts of these high-speed tapes so I could understand and then transcribe them. Transcribing a 90-minute tape that was recorded at normal speed would normally take about 12 hours, whereas re-recording, editing, and transcribing the high-speed tapes took between 20 and 30 hours per tape. This was a mammoth task that slowed the process of data analysis considerably. Not all the hearings were recorded at a higher speed, but a significant number, 26, were. So, given that I received from the FOIA a total of 87 90-minute tapes, representing a total of 137 hours and 30 minutes of recorded material, I estimate that I spent 1,382 hours transcribing these tapes. This represents approximately 35 40-hour

workweeks spent transcribing tapes. In sum, the process of transcription was enormous and tedious.

4.7. AWARENESS OF MY PRESENCE

4.7.1. Defendants

My presence was very noticeable to all parties involved, including judges, interpreters, attorneys, clerks, and defendants. Since my data gathering took place over the course of 14 months, I was able to observe positive and not-so-positive reactions to my presence. The defendants' opinion of my presence was the most significant, since they were the participants and also the ones granting me access to hard data. From the defendants' perspective I was seen either as a liaison between interpreters and judges, or as a potential threat to the outcome of the hearing. The main reasons I could have been seen as a threat had to do with issues of confidentiality and privacy, which deterred many defendants from participating. Even those who did consent to participate were at times slightly reluctant and nervous about the nature of my study.

Defendants were also concerned that I might have some effect on the outcome of the hearing. For example, some defendants were afraid that I might make the hearing run longer. Also, they feared that I might report back to the judge on the defendant's behavior or linguistic performance in court. They were also concerned about what was going to happen after the hearing was closed. Knowing that I would have access to their hearing in the form of audiotapes, defendants feared that I would remand their case or have some other impact that would cause the immigration judge's final order to be revoked. Even though all the measures to protect their

privacy by changing their names, dates, and so forth were spelled out in the voluntary consent form, I had to reassure participants over and over again that their personal information and identity would be kept confidential and anonymous.

However, by some defendants I was seen as an advocate or as a liaison between defendants and immigration officials, particularly judges and trial attorneys. Most defendants understood (or at least I thought they did) that my study involved unobtrusive participant observation on my part. I let the participants know that I was going to be taking ethnographic notes, that I was observing the language of interpreters, judges, and attorneys, and that this would not be any threat to them whatsoever. Although I made it clear that I was merely observing the language used in the hearing, defendants would nevertheless ask me questions and seek my advice before, during, and after their hearing. Defendants frequently asked me to evaluate the skills of the interpreters, especially the one assigned to their case. They wanted to know if the interpreter was experienced and had a good command of both languages.

Defendants also seemed to feel comfortable asking me to interpret for them whenever the court interpreter was not available. Such a situation would generally occur off-the-record when the defendant needed to address either the attorney or the judge and the interpreter had left the court momentarily. Defendants would often glance at me, sitting there in the first row, to appeal for help with the interpreting. In two different instances, defendants asked me to help their interpreter express what they were trying to convey in their testimony. Interestingly, both happened to be from Costa Rica. Both of these defendants had already asked me where I was from, and had learned that I am originally from Nicaragua, but had lived in Costa Rica for 10 years. They might have thought that I could show solidarity with them because of my own life

experiences. They realized that my knowledge of the Costa Rican culture and dialect of Spanish would enable me to understand the relevant semantic and pragmatic aspects of their discourse.

One of these defendants used the verb *estrenar* in Spanish, explaining that in Costa Rica one would have to fast in order to buy a brand new item. The interpreter did not quite understand the semantic connotation of *estrenar*. The interpreter's rendering was: "In Costa Rica people can't buy luxurious items." His rendition was not that far off; however, it did not convey the severity of the situation—that a person would have to go hungry to afford a brand new item. The interpreter's inaccuracy can be traced to ignorance of the defendant's socio-cultural situation. The defendant wanted to assert that Costa Rica's cost of living is so high that one cannot afford food and clothes at the same time. The defendant did speak some English and understood the interpreter's rendition. Upon realizing that this rendition was not all that accurate, the defendant asked me on the record to explain to the judge what *estrenar* means in Spanish: "Usted sabe estrenar, explique por favor estrenar." I nodded "no" with my head to remind the defendant that my participation was meant to be unobtrusive.

A similar situation occurred with another Costa Rican defendant. He asked me to intervene to help the interpreter convey the words *primaria* and *secundaria*. He was referring to primary school and secondary school, or high school. The interpreter in this case did not understand this and asked the judge's permission to address the defendant to ask him what he meant by *primaria* and *secundaria*. The defendant instead addressed the issue to me by acknowledging me on the record: "Usted sabe primaria y secundaria como se dice en Costa Rica." In sum, some defendants acknowledged my presence and viewed me as a problem solver, from a linguistic point of view anyway. Others saw me as an invader of their privacy and a potential threat to the outcome of their immigration hearing.

4.7.2. Attorneys

Both immigration attorneys, defense and government, were aware of my study. Defense attorneys felt my presence most keenly, as I had to explain to them what my study was all about so that I could gain their trust and eventually gain their client's trust as well. Many attorneys complained that interpreting mistakes had affected the outcome of their cases in the past. These attorneys were glad to hear about my study because they hoped it might eventually change the situation. In this sense, they saw me as an ally, and this gave me a positive image in their eyes. Many defense attorneys spoke Spanish, which helped them monitor the interpreter's language and interpreting skills. However, there were attorneys who didn't know any Spanish. These monolingual lawyers wanted to have an idea of how skilled the interpreters were. Monolingual defense attorneys would frequently ask for my feedback on the interpreter's performance. They viewed me as a linguistic expert and sought my input. Attorneys made comments to me such as "I wish you had been here when I had X case. Did you hear what judge Z said? What do you think of his comments? You should obtain transcripts of the hearings so you can compare them with the tapes." They also acknowledged how important my research was, in that my findings would not only unveil the linguistic constraints interpreters face, but would also raise awareness of the importance of accuracy in interpreting. Along these lines, defense attorneys would complain to me about some interpreter's poor performance, share with me their anecdotes about the poor interpreting performances of other interpreters at other courts, and explain to me how this affected perceptions of the case on the part of the judge, the trial attorneys, and the defendants.

Gaining the confidence of both government and defense attorneys was beneficial to my study. Once I had spent a reasonable amount of time collecting data, attorneys regarded me as a

regular, which made them feel comfortable about sharing their opinions and analyses of the cases they were working on. Two of the regular defense attorneys would report to me and tell me when they were scheduled for a full Spanish case. Likewise, they would advocate on my behalf, telling their clients about my study's importance, its academic benefits, and its consent requirements.

Because obtaining consent and collecting data on immigration hearings was such a delicate procedure, I had to spend a considerable amount of time on site. Then I had to submit the requests and wait for the FOIA Unit to release the tapes. All in all, I had to spend more than a year on site collecting data. Although my continued presence did help me gain the attorneys' trust in general, at some point some of the attorneys must have begun to feel a little uneasy about my presence. By the time I had been there 9 months, attorneys were asking me how much longer I would need to collect data. Some of their comments were: "You've been here forever," "You might as well become an attorney," "How many more cases do you need to observe?" These comments were a clear indicator that some trial attorneys were getting a little tired of seeing me. Although trial attorneys were not the main participants, nor did I have to request their consent to obtain access to hard data, they were involved in the speech event. They were aware that they were not the objects of my study; nevertheless, they had probably begun to feel they were being observed a little too much because of the amount of time I spent in court.

4.7.3. Immigration Judges

The judges were very aware of who I was and what my objectives were. A total of seven judges were observed in this study. Of the seven judges I observed, two were uncomfortable with my presence. One of these two judges in particular hardly ever granted me access to her court. She was well known for her domineering personality. This particular judge did not allow me or any other party to observe her cases, even though immigration hearings are open to the public by

law. Interestingly, this judge would close her door almost all the time. The other judge did grant me access to his courtroom and was very helpful to my research. One time this judge asked me how much longer I was going to be around, giving me the impression that he was getting tired of my presence. To decrease his anxiety, I stopped visiting his court and no longer tried to gain access to those defendants who were scheduled to appear before him.

The other five judges were also very aware of my presence. These judges were extremely helpful to my study. They were always welcoming me to their courtroom and they would even invite me to observe hearings they thought would be of academic interest to me. A number of times I had the rewarding experience of being asked by the judge to approach the bench during recess or after a hearing was over. Judges would explain to me the reasons for their rulings and the consequences of having ruled differently. Some of them would ask me if I had learned anything new in terms of immigration law. My questions were always welcomed in these judges' courtrooms. One judge would welcome me to his chambers so that I could ask him any questions I might have pertaining to immigration law or to any specific case.

Often these judges would feel comfortable asking me specific questions about my research. Some were curious about my methodological approach. Others were curious about linguistic aspects of the Spanish language and the influence of English on bilingual defendants. As time passed, these judges increased their awareness of my presence and of the importance of having common linguistic guidelines for interpreting. Some judges, especially the monolingual ones, were not all that conscious of the sociolinguistic factors that could affect the performance of the interpreters. One of the judges also invited me to a conference for immigration judges. He was aware of the importance of my research and wanted to enrich my knowledge of the immigration system and its judges.

4.7.4. Interpreters

Interpreters were a great source of information about the immigration system and the ethnography of judges, attorneys, defendants, and other interpreters. Once I had spent four months in court, interpreters had gained a better understanding of my research. Interpreters soon became aware of the need to address linguistic and sociocultural issues in interpreting at an academic level. Therefore, interpreters began offering me pamphlets containing information on workshops on interpreting, an immigration glossary, newspaper articles related to immigration, and a bibliography on immigration law. Interpreters also introduced me to the National Association of Judiciary Interpreters (NAJIT) so I could learn about interpreting through this source as well. These additional types of data helped me understand how interpreters prepare to perform their jobs and how much they study. Also, interpreters would help me identify potential defendants sitting in the waiting room and cases posted on the calendar.

The interpreters also began to develop an awareness of their linguistic performance. They began to consult me on specific words and expressions. On many occasions, interpreters would be self-conscious about the interpreting mistakes they had made; for example, an interpreter once asked me, “Notaste que dije *granja* en lugar de *finca*? Porque en Latinoamérica dicen *finca* y no *granja*” (Did you notice that I said *farm* instead of *ranch*? Because in Latin America people say *ranch*, not *farm*). At the end of the hearing or during recess, interpreters would apologize to me for any calques or borrowings they had used incorrectly. Calques such as *tarjeta verde* for green card and *aplicación* for application were common in their everyday interpreting. Interpreters would be self-conscious about using them, thanks to my presence. One of them confided in me the following: “Ahora tengo más cuidado al usar la palabra *solicitud* en lugar de *aplicación*” (I am now more careful to use *solicitud* instead of *aplicación*). Even though I explained to them

that my intention was not to change their linguistic performance, they nevertheless felt a responsibility to produce cleaner and more accurate interpreting in my presence. Other comments were in relation to word choice. Some interpreters would ask me how I would have interpreted a word that was problematic for them.

More interesting was that interpreters became more aware of the performance of their fellow interpreters. Interpreters have to sign in at the clerk's office at least fifteen minutes prior to a hearing. Whenever the hearing they were scheduled for was running late, they would sit and wait in the courtroom until they were called. Interpreters would sit next to me and comment on the performance of other interpreters. They would comment on how an expression should have been interpreted or what should have been said. In other words, they were becoming more self-aware and more aware of the linguistic choices of their colleagues.

Sometimes interpreters would look embarrassed if they didn't know the meaning of a word. That was the case of an interpreter who didn't know the meaning of the word *commonwealth*. The judge, who had introduced the term and who was also bilingual, helped the interpreter with the corresponding interpretation. The interpreter approached me at the end of the hearing and asked me if I knew the proper translation of the aforementioned word. He told me he was embarrassed at not knowing the meaning of it. A similar situation occurred with this same judge but a different interpreter when the defendant said that he lived in *caseríos*. The interpreter for this case was originally from Spain and failed to translate the word *caserío* properly. The immigration judge stated for the record that *caserío* meant low-income housing, which the interpreter did not know. The next day this same interpreter approached me and told me that he had looked the word up in the dictionary and had been unable to find it. The point of these

anecdotes is that the interpreters were becoming more conscious of their own linguistic performance and that of others.

Some interpreters also grew tired of my presence. By the time I had spent between 7 and 9 months collecting data, I noticed that the interpreters were becoming a little anxious as well. They made comments such as: “You haven’t finished collecting the data yet?” and “My case is very short; it’s not going to be worthwhile for you to listen to it.” The interpreters knew I was analyzing their performance and might have felt intimidated by this.

4.8. PARTICIPANT OBSERVATION IN INTERPRETING CONFERENCES

Part of my goal was to discover what immigration court interpreters considered to be the most difficult aspects of interpreting, what improvements could be made, and what educational avenues were available to enable interpreters to improve their interpreting skills. I became a member of the National Association of Judiciary Interpreters and Translators (NAJIT), an association that is dedicated to the academic study of interpreting and translating and committed to promoting quality interpretation and translation services in the judicial system. Members of NAJIT include practicing interpreters and translators, as well as educators, researchers, students, and administrators who want to promote professional standards of performance and integrity for the profession of judiciary interpretation and translation. Members of NAJIT want to make the public and the judicial community aware of the unique role and function of interpreters and translators in the legal system. NAJIT keeps its members updated with information about future conferences and about locations offering National Judiciary Interpreter and Translator certification. It also addresses issues of judges’ attitudes toward interpreters, of interpreting as a

cross-cultural task, and of what being an interpreter in the United States entails (National Association of Judiciary Interpreters and Translators, 2003).

In addition to learning about interpreting from the points of view of other interpreters and scholars, I also attended conferences designed for judges. I attended the 22nd Annual Immigration Conference of the Federal Bar Association. The main issues addressed were immigration matters in the new Department of Homeland Security; ethics and immigration law; cancellation of removal for non-criminal aliens; and issues related to relief in deportation, exclusion, and removal proceedings (such as cancellation of removal for lawful permanent residents). Attending both conferences gave me a better understanding of the issues and concerns that professional interpreters and judges face. It also provided a valuable complement to my ethnographic note taking, interviewing, and tape-recording. I found out what issues both parties are most concerned about and how they go about addressing these concerns.

Attending these conferences and reading the NAJIT newsletter gave me a means of contrasting what I had observed in court with what was addressed in the conferences and in the NAJIT newsletter. Although NAJIT puts a strong emphasis on promoting certification for freelance interpreters, little is said in its journals about the linguistic and sociocultural constraints interpreters face on a daily basis. Furthermore, there are not many articles addressing other problems, such as pragmatic aspects of language use that could have an impact on their interpreting performance. Nevertheless, NAJIT does do an excellent job of announcing and promoting Web links and references that enable its members to obtain free information on forensic linguistics, applied linguistics, and interpreting programs available nationwide.

The Federal Bar Association conference dealt with important issues having to do with new changes in homeland security and immigration law. Their most salient issues concerned the

impact of the law on the defendants, but very little if any attention was given to interpreters and their important role in the immigration judiciary system. The lack of attention paid in these conferences to interpreters and their impact on immigration hearings was echoed in the dynamics between judges and interpreters and captured in the tapes of the hearings.

5. THE ETHNOGRAPHY OF THE COURTROOM

5.1. GAINING ACCESS TO THE INS SITE

Gaining access to hearings at the immigration and naturalization office where I gathered my data required arriving there early. This meant that when a full hearing was scheduled for 9:00 a.m., I would have to be at the entrance door by 7:30 a.m. in order to be in court by 8:30 a.m. I needed to give myself at least half an hour prior to any hearing to screen the participants and explain the nature of my research. Any lay person, whether visitor or defense attorney, U.S.-born or immigrant, coming with a citation or without one, all had to pass through the same main doors and metal detectors. Only immigration officials, interpreters, and judges were allowed entry through a side door and without inspection. Immigration officials carry an identification card that enables them to enter without any problems.

The immigration office provided lay people with a wide variety of services in addition to immigration hearings. People would wait outside, in lines as long as three blocks, to enter in the morning. The data collection procedure for this study was begun in winter. The temperature was below zero some mornings. We would all wait patiently for an hour or more in the cold to make it through the main gate. Arriving at the metal detectors, we got to hear a 5-to-10-minute speech by the security guard. There were two main doors, each with two or three security guards. Their job was to make sure that nobody brought in any hazardous items. People and their belongings had to pass through metal detectors.

The atmosphere at the entrance was hostile and intimidating. Even though security guards were just doing their jobs, they exercised so much power through their body language and speech that anyone who had never been to this immigration office before could easily be intimidated. Some security guards were of Hispanic origin, but they didn't speak Spanish on the job. There were also many lay people who did not speak English well, or at all. They entered the main gate and heard the guard's instructions in English but didn't know what was happening. After spending months collecting data, I got used to hearing the security guards reciting what I called the "Miranda rite of passage." The guards let in ten people at a time, and each group of ten heard the same set of instructions:

Listen up people; take all your belongings out of your pockets: keys, coins, watches, everything! Put them on these trays. No weapons allowed!

One by one, the ten visitors had to go through the metal detector. The security guards had the power to reject anyone who looked suspicious, attempted to bring in illegal items like sharp or pointed implements, didn't show proper respect, or disobeyed the guards' orders. There was one incident with an African American woman who did not want to stand at the side of the entrance as she was told. The security guard asked her twice to move to the right side of the entrance. The woman did not follow his orders and he yelled at her the third time. As a result of her disobedience, she was thrown out of the building. She was not permitted to enter for that entire day.

One has to understand that the atmosphere in immigration offices is tense by nature. People go to immigration offices to request waivers, working permits, visas, asylum, green cards, cancellation of deportation orders; to have marriage interviews; and to serve as witnesses. Those who have failed to bring the necessary legal documents may have to come back again to present

them. One could sense the tension and hear the stress in the voices of those waiting in line to enter the building. The security guards were there to ensure the well being of everyone at the immigration office. Nevertheless, their presence was intimidating, since they had control over who was permitted to enter. After passing through the metal detectors, one was free to proceed to the appropriate office. In my case, I always went to the floor where all the hearings were held.

5.1.1. Outside the Courtroom—The Waiting Area

Once inside the building, one can gain access to any office. On some floors, identification is required for entry to that specific floor. This is not the case for immigration hearings. Defendants, attorneys, and lay people all have open access to the immigration hearing courts. There is a waiting area where defendants, witnesses, interpreters, and defense attorneys sit. There I would encounter interpreters waiting for their cases to come up. Some interpreters preferred to wait in the courtroom, just in case the judge wanted to proceed with his next case earlier than scheduled. The interpreters sitting in the waiting area were always alert, making sure the judge knew they were at the ready. Interpreters have to wait along with the defendants and their party until the judge gets to their case or adjourns it.

Some attorneys would arrive right on time and would not sit in the waiting room. Others would wait for hours in the waiting room for their turn, especially if the judge was running late taking care of other hearings. These attorneys would vent their frustrations out loud, especially if they had spent the whole morning waiting for the judge to proceed with their case. The other people sitting there were also awaiting their hearings. The atmosphere there was just as tense and anxious as it was outside in line. I would sit there sometimes for hours, trying to identify potential participants for my study. Those hours gave me the opportunity to hear the comments of the defendants' families, attorneys, and defendants as they were preparing their testimony

prior to their hearing. Their comments were a constellation of emotions. Some of them were of hope, others of fear and anxiety, and others of indifference.

Waiting in the lobby outside the courtrooms, one could occasionally hear other hearings. The hearings are open to the public; therefore, the doors were almost always open. Sometimes I witnessed relatives and defendants crying. In such emotional moments, it was difficult to detach myself from the families' sorrow, especially when they were begging the judge to change his/her oral decision. Once the judge orders deportation, the defense can appeal the judge's decision. However, the appellate process does not guarantee that the board of appeal will rule in favor of the defendant. Waiting in the lobby gave me the unique opportunity to get to know the defense attorneys, talk, introduce my study to defendants, and talk to interpreters of Spanish and other languages.

5.1.2. Inside the Courtroom

Immigration hearings are different from regular hearings. First of all, immigration hearings do not have a jury present. The players are the immigration judge, the defense and trial attorneys, the defendant, the interpreter, and witnesses if necessary. Anyone who has been charged with a violation of immigration law gets a charging document called a Notice to Appear (NTA) (Statistical Year Book, 2002). Thus, the defendant appears in front of the judge to contest the charges. The hearings start at either 8:30 or 9:00 a.m. The immigration judge has a list of all the cases scheduled for that day, and identifies them by the defendant's alien number or by the defense attorney assigned to that case. The format of a hearing depends upon the type of hearing it is. Preliminary hearings have a different format and length than full hearings and are scheduled using a master calendar. When it is a master calendar day, each judge normally has 10 or more preliminary hearings scheduled.

In these hearings, all the defendants who are scheduled to appear before a particular immigration judge are in the same courtroom together. The judge identifies each case by its alien number and calls up one defendant after another. Defendants appear in court to hear the charges and the date of the corresponding full hearing. Defendants come with or without an attorney. Preliminary hearings also serve to assign a defense attorney if the defendant doesn't have one, allow the defendant to change attorneys (in case the defendant is not pleased with the attorney or the attorney is not willing to represent him/her), and let the defendant know what other pieces of equity (documents, for example) he/she needs to bring to court for the full hearing.

Once the parties are ready to proceed, the immigration judge begins tape-recording the preliminary hearing. The immigration judge states the defendant's name for the record, confirms the defendant's address, and reads a statement of the defendant's right to an attorney. Also, the immigration judge has to state the defendant's language of preference. The immigration judge has to ask whether the defendant needs an interpreter for the preliminary hearing and the full hearing. The following transcript, Excerpt 1, is taken from a preliminary hearing that exemplifies the ethnography of the speech event. (The cases I transcribed for this study are numbered from 1 to 40.) The Spanish portions of the dialogue are in italics.

Excerpt 1 is taken from Case 5.

1.1 Immigration Judge (IJ) [male]: The respondent is here without representation. The Spanish interpreter today is A. To the respondent:

1.2 Interpreter [female]: Yes, your honor.

1.3 IJ: What is your name?

1.4 Interpreter: *¿Cómo se llama usted, señorita? ¿Cómo se llama?*

1.5 Defendant [female]: *Eme... Emelina X.*

1.6 Interpreter: Emelina X.

1.7 IJ: And Mario X is your son?

1.8 Interpreter: *¿Mario X es su hijo?*

1.9 Defendant: Yes.

1.10 Interpreter: Yes.

1.11 IJ: A five-year-old boy?

1.12 Interpreter: *Es un niño de cinco años, ¿verdad?*

1.13 Defendant: Mmhum.

1.14 Interpreter: Yes.

1.15 IJ: Is Spanish your best language?

1.16 Interpreter: *¿El español es su mejor idioma?*

1.17 Defendant: Sí.

1.18 Interpreter: Yes.

1.19 IJ: Do you have a lawyer?

1.20 Interpreter: *¿Tiene abogado usted?*

1.21 Defendant: Not yet.

1.22 Interpreter: Not yet.

1.23 IJ: The immigration services filed charges against you and your son.

1.24 Interpreter: *El servicio de migración tiene cargos contra usted y su hijo.*

1.25 IJ: They claim you are from Colombia...

1.26 Interpreter: *Dice que usted es de Colombia...*

1.27 IJ: ...and you entered the United States on September twenty-second...

1.28 Interpreter: *...y entonces que entró a Estados Unidos septiembre veintidós...*

1.29 IJ: ...2001...

1.30 Interpreter: *...en el año 2001...*

1.31 IJ: ...with a visitor visa...

1.32 Interpreter: *...con una...visa de visitante...*

1.33 IJ: ...and that you both overstayed.

1.34 Interpreter: *...y que se quedaron más allá del tiempo debido.*

1.35 IJ: They are charging with overstay.

1.36 Interpreter: *Y entonces esos son los cargos—que se quedó aquí más tiempo de lo debido.*

1.37 IJ: Do you understand?

1.38 Interpreter: *¿Entiende?*

1.39 Defendant: Sí.

1.40 Interpreter: Yes.

1.41 IJ: You have the right to have a lawyer...

1.42 Interpreter: *Usted tiene el derecho de tener un abogado...*

1.43 IJ: ...but we can't pay for the lawyer or find you one.

1.44 Interpreter: *...pero nosotros no se lo conseguimos ni se lo pagamos.*

1.45 IJ: You have to do that yourself.

1.46 Interpreter: *Usted lo tiene que hacer usted misma.*

1.47 IJ: If you wanna go ahead without a lawyer that's fine...

1.48 Interpreter: Sin embargo si quiere usted seguir sin abogado, lo puede hacer...

1.49 IJ: ...but usually it's better to have one.

1.50 Interpreter: *...pero usualmente es mejor tener uno.*

1.51 Defendant: *Quiero tener uno.*

1.52 Interpreter: No, I wanna have one.

1.53 IJ: Okay, let me give you some time for a lawyer.

1.54 Interpreter: *Okay, le voy a dar tiempo para buscar uno.*

1.55 IJ: I am gonna give quite a bit of time; this will be your only chance.

1.56 Interpreter: *Okay, Okay, le voy a dar bastante tiempo para buscar; va a ser su único chance, ¿okay?*

1.57 Defendant: Thank you.

1.58 Interpreter: Thank you.

1.59 IJ: February 27th; that's over three months.

1.60 Interpreter: *Febrero 27 es más de tres meses, del año próximo 2003.*

1.61 IJ: If you, if you miss your hearing without a good excuse there will be penalties.

1.62 Interpreter: *Si usted no viene a una audiencia eh con una buena excusa hay penalidades.*

1.63 IJ: You will get deported...

1.64 Interpreter: *Usted puede ser deportada automáticamente...*

1.65 IJ: ...and you will also lose the right to apply for certain kinds of important immigration benefits...

1.66 Interpreter: *...y usted pierde el derecho de aplicar por ciertos derechos de inmigración; es muy importante...*

1.67 Defendant: Okay.

1.68 IJ: ...for the next ten years.

1.69 Interpreter: *...por los próximos diez años.*

1.70 IJ: I am getting, I am getting you a form that describes all the penalties.

1.71 Interpreter: *Le voy a dar una forma que describe todas estas penalidades.*

1.72 IJ: I'm also getting you a blue change of address form.

1.73 Interpreter: *Le voy a dar una forma... una azul... si usted cambia de domicilio a medida...*

1.74 IJ: If... you will have to fill out this form...

1.75 Interpreter: *La llena esa forma...*

1.76 IJ: ...then send it back to the court...

1.77 Interpreter: *...y lo manda de regreso a la corte...*

1.78 IJ: ...within five days.

1.79 Interpreter: *...dentro de cinco días.*

1.80 IJ: Are you still living in...

1.81 Interpreter: *¿Todavía vive en la misma dirección?*

1.82 IJ: ...in apartment one?

1.83 Interpreter: *¿En el apartamento uno?*

1.84 Defendant: Yes.

1.85 IJ: X Street?

1.86 Defendant: Uhum.

1.87 Interpreter: *¿En la Calle X?*

1.88 Interpreter: Yes.

1.89 IJ: Number fifty-six?

1.90 Interpreter: *¿Número cincuenta y seis?*

1.91 Defendant: Yes.

1.92 Interpreter: Yes.

1.93 IJ: Okay, uh, I'm supposed to give you a list of free attorneys. If there aren't free attorneys...

1.94 Interpreter: *Se supone que le debo de dar una lista de abogados gratis. Si no hay abogados gratis...*

1.95 IJ: ...you should talk to friends and relatives to see if they know any attorneys.

1.96 Interpreter: *...usted puede hablar con amigos, familiares, y pedirles recomendaciones de abogados.*

1.97 Defendant: Okay.

1.98 Interpreter: Okay.

1.99 Defendant: Thank you.

1.100 Interpreter: Thank you.

1.101 IJ: All right, so we'll see you, I hope, with a lawyer next time, February 27th.

1.102 Interpreter: *Entonces esperamos que la volvamos a ver con un abogado febrero 27 a las nueve, ¿sabe? Venga antes de las ocho de la mañana para que esté presente, OK?*

1.103 Defendant: Yes, okay, I will, thank you.

Immigration judges assign a date for the full hearing based on any openings and also on their own discretion. As was mentioned in Chapter 2, there are some cases that take up to a year to get a final hearing, for a number of reasons. It is up to the immigration judge whether to keep adjourning the case to give the defense the time it needs to be ready to proceed. If the defendant appears in court without an attorney on the day assigned for the full hearing, the immigration judge decides whether to give the defendant a second or third chance to seek representation.

A full hearing follows the same procedure as the preliminary hearing. Whether the hearing is a removal proceeding or a voluntary departure hearing, whether the defendant is seeking asylum due to fear of future persecution or for another reason, all must have a preliminary hearing first, and, months later, a full hearing. Once all the parties are ready for the full hearing, the immigration judge makes sure the equity, or evidence, is in order, reviewing it out loud for the record. The interpreters don't interpret this part of the interaction. Before the full hearing starts, both parties negotiate with the judge. At this time the immigration judge gets to hear what each party wants in terms of the type of relief, and under which act. If the defendant is seeking political asylum and does not meet the requirements, it is the immigration judge's job to state on the record that he/she is not eligible at all, and what relief the defendant is eligible for, if any. By this time, the three parties, namely the judge, the defense, and the trial attorney, know whether the defendant deserves the waiver or not, based on the evidence presented and the immigration act under which the defendant applied for relief. Nevertheless, the defense attorney

proceeds with the hearing, since he may still want to appeal the immigration judge's decision if it is not favorable to the defendant.

The atmosphere inside the courtroom varies depending upon the immigration judge. Some judges like to establish a very formal and rigid environment; others are more relaxed. In general, the tone of the hearing is rigid and tense due to the nature of this speech event: failure to obtain the requested relief results in deportation. Therefore, defendants, witnesses, family, and friends attending the hearing are very nervous. Some judges like to calm nerves by being polite or by joking slightly. Before taking testimony, the immigration judge has to swear in the interpreter and make sure that the defendant understands the interpreter. These proceedings are all on the record, as is the name of the interpreter. The hearing begins with a direct examination of the defendant by the defense attorney. The immigration judge serves as judge and jury. The judge also cross-examines both the defendant and any witnesses, and in this role, occasionally becomes a subtle advocate for one or the other of the two parties.

The interpreter only interprets the questions and answers that involve the defendant and a second party. The interpreter does not interpret any negotiation between attorneys and the judge. Only at the request of the immigration judge will the interpreter interpret such interactions. The defendant is not allowed to talk to anyone else in court. The hearing ends when the immigration judge gives an oral decision; both parties reserve their right to appeal this decision within a period of one month. The immigration judge's decision could order removal—or grant relief. Among the relief options an immigration judge can grant are cancellation of removal, suspension of deportation, political asylum, adjustment of status, and waiver of removability.

5.2. IMMIGRATION REFORM

5.2.1. Illegal Immigration Reform and Immigrant Responsibility Act

Before the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 there were two major types of immigration hearings: *exclusion proceedings* and *deportation proceedings*. A person fell under the category of exclusion proceedings when stopped at the port of entry attempting to enter the United States and found to be inadmissible. A person fell under the category of *deportation* proceedings when the INS maintained that the person entered the United States illegally and stayed. Also, in some cases, the person might have entered legally, but then violated either immigration law or a condition of his or her visa (Executive Office for Immigration Review, Statistical Year Book, 2002, U.S. Department of Justice). The IIRIRA established four new types of proceedings as of April 1, 1997:

1) Removal Proceedings: Under removal proceedings (which replaced exclusion and deportation proceedings), the INS must file a Notice to Appear (NTA) to initiate the proceedings. 2) Credible Fear Review: Arriving aliens with no documents, or with fraudulent documents, are subject to expedited removal by the INS. If an arriving alien who has been ordered removed under the expedited removal provisions expresses a “credible fear” of persecution, the alien is referred for an interview by an asylum officer. Aliens found by the asylum officer not to have a credible fear of persecution may request a review by an immigration judge. If the judge determines there is “credible fear,” the judge will vacate the INS order of expedited removal. 3) Claimed Status Review: If an alien in expedited removal proceedings before the INS claims to be a U.S. citizen, to have been lawfully admitted for permanent residence, to have been admitted as a refugee, or to have been granted asylum, and the INS determines that the alien has no such claim, he or she can obtain a review of that claim by an immigration judge. 4) Asylum Only: An asylum-only case is initiated when an arriving “crewman or stowaway” is not eligible to apply for admission into the United States, but wants to request asylum. In addition to the new proceedings established under the IIRIRA, immigration judges continue to rule on pre-IIRIRA deportation and exclusion cases. The number of these cases continues to decrease. (U.S. Department of Justice, Statistical Year Book, 2002, p.C2)

Another type of hearing is the voluntary departure hearing, in which the judge grants the immigrant permission to leave the country voluntarily. The judge may grant the defendant up to 60 days to leave the country. A voluntary departure grants the defendant the right to return to the United States after 10 years from the date of departure. The person has to go through immigration and be granted a visa before returning to the United States. If the person does not leave the country voluntarily, an order of removal is issued and the defendant is categorized as removable. This means that the person loses the privilege of returning to the U.S. after 10 years from the date of departure and can never return to the United States.

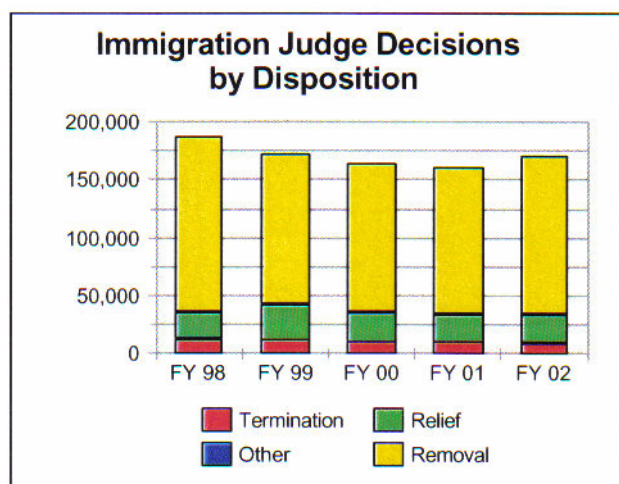


Figure 5.1 Percentage of immigration judges' decisions by disposition type for fiscal year 2002.

Table 5-1. Percentage of immigration judges' decisions by disposition type for fiscal year 2002.

IJ Decisions by Disposition										
	Termination		Relief		Removal		Other		Total	
	Number	% of Total	Number	% of Total	Number	% of Total	Number	% of Total	Number	% of Total
FY 02	9,383	5.5	24,529	14.4	135,246	79.5	1,061	0.6	170,219	100.0
FY 01	9,720	6.1	24,182	15.1	124,833	78.1	1,066	0.7	159,801	100.0
FY 00	9,725	5.9	25,350	15.4	128,407	78.1	967	0.6	164,449	100.0
FY 99	11,612	6.7	29,977	17.4	129,784	75.4	821	0.5	172,194	100.0
FY 98	12,396	6.6	22,712	12.2	150,463	80.6	1,163	0.6	186,734	100.0

Executive Office for Immigration Review, FY 2002 Statistical Year Book

Voluntary departure orders are included under “other” decisions. These “other” decisions include permissions the immigration judge may give to an immigrant to withdraw his/her application for admission during the proceedings. According to the U.S. Department of Justice Statistical Year Book, after 1999 the percentage of immigrants ordered removed increased slightly, whereas the percentage of those granted relief decreased:

In 1999, immigration judges ordered removal from the United States in 75.4 percent of the decisions and granted relief in 17.4 percent. By comparison, in 79.5 percent of the FY 2002 decisions the alien was ordered removed, and in 14.4 percent of the decisions, the immigration judge granted relief. (Executive Office for Immigration Review U.S. Statistical Year Book, 2002, p. D2)

In terms of the nationalities of the immigrants who appeared in court in FY 2002, a total of 219 nationalities appeared as judge’s completions. As shown in Figure 5.2, Central Americans and Mexicans are the predominant nationalities in immigration court completions.

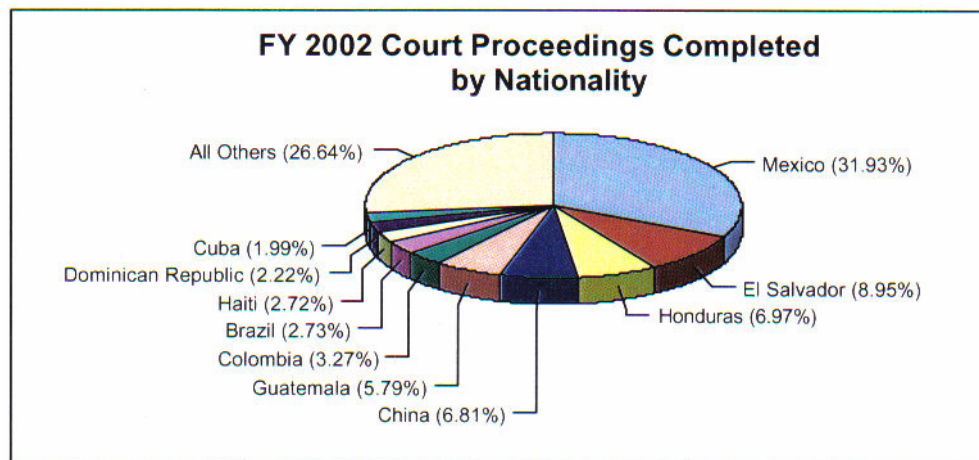


Figure 5.2. Percentage by nationality of court proceedings completed for fiscal year 2002.

Table 5-2. Cases and percentages by nationality of court proceedings completed for fiscal year 2002.

FY 2002 Court Proceedings Completed by Nationality		
Nationality	Cases	% of Total
Mexico	73,232	31.93%
El Salvador	20,522	8.95%
Honduras	15,978	6.97%
China	15,622	6.81%
Guatemala	13,286	5.79%
Colombia	7,498	3.27%
Brazil	6,268	2.73%
Haiti	6,232	2.72%
Dominican Republic	5,081	2.22%
Cuba	4,557	1.99%
All Others	61,109	26.64%
Total	229,385	100.00%

Executive Office for Immigration Review, FY 2002 Statistical Year Book, April 2003

Table 5.2 shows that eight Latin American countries ranked in the top eight nationalities represented in immigration court for the 5-year period from 1998 through 2002. This indicates that the Latino population represented the highest percentage of cases completed by immigration judges throughout this entire period.

Table 5-3. Breakdown by language of cases coming to trial for fiscal years 1998–2002.

Rank	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
1	Mexico	Mexico	Mexico	Mexico	Mexico
2	El Salvador	El Salvador	El Salvador	El Salvador	El Salvador
3	Guatemala	Guatemala	Honduras	China	Honduras
4	Honduras	Honduras	China	Honduras	China
5	China	Nicaragua	Guatemala	Guatemala	Guatemala
6	Haiti	China	Cuba	Haiti	Colombia
7	Nicaragua	Haiti	Haiti	Cuba	Brazil
8	Dominican Republic	Cuba	Dominican Republic	Brazil	Haiti
9	India	Dominican Republic	India	Dominican Republic	Dominican Republic
10	Cuba	India	Colombia	Colombia	Cuba
11	Colombia	Colombia	Ecuador	Ecuador	India
12	Philippines	Jamaica	Jamaica	India	Ecuador
13	Jamaica	Peru	Nicaragua	Jamaica	Jamaica
14	Ecuador	Ecuador	Peru	Albania	Albania
15	Peru	Philippines	Brazil	Pakistan	Pakistan
16	Pakistan	Pakistan	Somalia	Nicaragua	Nicaragua
17	Nigeria	Nigeria	Philippines	Sri Lanka	Peru
18	Bangladesh	Russia	Sri Lanka	Peru	Philippines
19	Canada	Bangladesh	Pakistan	Philippines	Armenia
20	Russia	Somalia	Russia	Russia	Indonesia
21	Vietnam	Albania	Albania	Somalia	Russia
22	Iran	Canada	Nigeria	Nigeria	Nigeria
23	Sri Lanka	Vietnam	Canada	Iran	Egypt
24	Somalia	Yugoslavia	Vietnam	Canada	Iran
25	Yugoslavia	Sri Lanka	Yugoslavia	Armenia	Canada

Executive Office for Immigration Review, FY 2002 Statistical Year Book, April 2003

Figure 5.3 shows the breakdown by language of cases coming to trial in the same fiscal year. It shows a total of 213 languages were spoken in immigration court proceedings during FY 2002 (U.S. Department of Justice, Statistical Year Book, 2002).

Figure 5.4

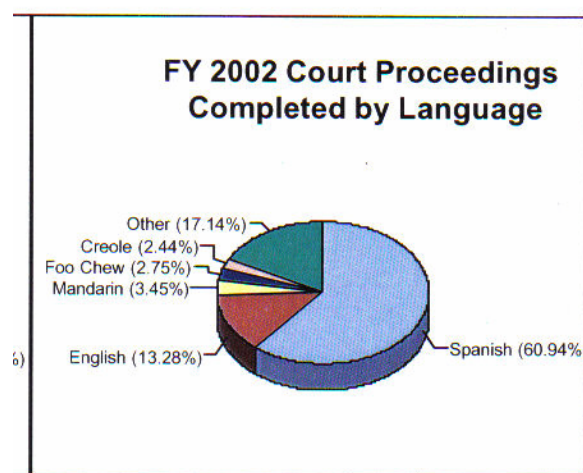


Figure 5.3 (Figure 5.4.) Percentage by language of court proceedings completed for fiscal year 2002.
Executive Office for Immigration Review, FY 2002 Statistical Year Book, April 2003.

Cases taking place in Spanish represented almost 61% of immigration proceedings taking place in the United States, a percentage that far surpasses that of cases in any other language used. This percentage is very high, although it did decrease from FY 1998, in which cases in Spanish represented 66 percent of the caseload. Such a high proportion indicates that even though the number of languages spoken in the United States is growing, Spanish is still the predominant second language spoken (U.S. Department of Justice, Statistical Year Book, 2002, p.C2).

5.2.2. Homeland Security

The September 11th terrorist attack on the United States gave birth to the Office of Homeland Security. The mission of this new office is to coordinate and implement a

comprehensive national strategy to secure the borders of the United States and to prevent terrorist attacks (Brooks, 2003). Homeland Security intended to achieve its goal by combining the Immigration and Naturalization Service, the Customs Service, and the Coast Guard for better border security. How does its merger with the Office of Homeland Security affect the INS? What major or minor changes will the INS face? Strickland and Willard (2002) explain why the INS needed to be restructured and what departments needed to be strengthened:

Effective, preventive homeland security requires nothing less than a fundamental reengineering of the immigration system, predicated on the concept of information superiority and achieved through effective data mining and information assurance. This equates to fundamental changes in the involved data, processes, and tools. As we now know, none of the terrorists on 11 September had a bona fide, confirmable background—there was no extant information as to assets, education, employment, family, or business relationships that would warrant entry. Indeed, the FBI has acknowledged that the most intensive background investigations after the fact have failed to create a meaningful profile. In essence, the terrorists appeared from the ether, and what little information concerning their activities can be developed even after the fact suggests a pattern of conduct that is highly suspicious. In sum, there is not a scintilla of data in any government or commercial database to justify admission. Yet their visa applications were approved and would likely be approved today. (Strickland & Willard, 2002, ¶6)

Strickland and Willard (2002) state that one of the goals of Homeland Security is to reengineer the process by which foreign nationals are admitted and managed while in this country. They also maintain that the INS should now issue visas only if there is sufficient analyzed and positive information to establish that entry is in the national security interest of the United States.

To meet these goals, the Immigration and Naturalization Service (INS) became part of the Office of Homeland Security on March 1, 2003, and its name was changed to the Bureau of Citizenship and Immigration Services (BCIS). Flyers in English and Spanish announcing the change were distributed at the former INS office (See Appendix G). BCIS needs to improve in many areas in order to advance the homeland security goal of securing the borders from future

terrorist attacks (Strickland and Willard, 2002). The organizational changes and restructuring were made within the organization; that is, lay people seeking INS services were not immediately affected. However, immigrants soon began to notice changes. There was more paperwork to file and more-extensive BCIS screening to undergo. And there were more fees. Immigration judges and trial attorneys started calling the INS the BCIS whenever they had to refer to the service. In the month of March, lay people, interpreters, and judges commented on the merge. Lay people, especially, were a little confused, since they were not all that clear on the goals of the new office. Although judges and trial attorneys all made an effort to incorporate the new name, lay people still refer to this office as the INS.

5.3. THE ETHNOGRAPHY OF THE PLAYERS

5.3.1. The Players: Defendants

As indicated above, the defendants came from many countries. At the time this data was collected, Colombian, Ecuadorian, and Central American defendants accounted for the majority of the cases. Defendants came from all walks of life and varied greatly in socio-economic status. Most were monolingual or spoke very little English, making the use of an interpreter imperative. Their sociolinguistic backgrounds and the prestige of their dialects varied greatly as well—some of them had not finished high school. There were a great many Colombians in immigration court during the time I was collecting the data. That year many Colombians filed for political asylum under the Convention Against Torture (CAT). Therefore, many of the defendants in the cases analyzed in this study are of Colombian nationality.

5.3.2. The Players: Attorneys

There are two types of attorneys present in immigration hearings: defense attorneys and trial attorneys (who are also referred to as “the government”). Among the defense attorneys observed for this study were two types: Pro bono and private. Pro bono attorneys offer their services to defendants who can’t afford a private attorney. One of the rights defendants have is the right to a list of pro bono attorneys, in case they can’t afford a private one. Immigration judges offer this list during the preliminary hearing. Some of the legal-services providers in the area of the field site are Catholic Community Services, International Institute, El Centro Hispano-Americano, Legal Services of the State of [X], American Friends Service Committee Immigrant Rights Program, Lawyers for Human Rights Program, Lutheran Immigration and Refugee Program, and The Hebrew Immigrant Aid Society. Private attorneys have their own private practices and they are contacted on a private basis. Trial attorneys are appointed by the government, and are assigned to particular cases and judges. They effect a serious demeanor and usually intimidate defendants with the tone of their interrogation. One interpreter expressed the belief that trial attorneys are trained to have an intimidating attitude, since the job of immigration services is to deport defendants who have violated immigration law.

5.3.2.1. Monolingual vs. Bilingual Attorneys.

In the immigration hearings I observed, I noticed that almost half of the private attorneys representing defendants were bilingual. Their backgrounds were diverse and they were of many different nationalities. Some of them were of Cuban descent; others came from Ecuador, El Salvador, Costa Rica, the Dominican Republic, or Colombia. There were two regular private American attorneys who spoke Spanish. Among the pro bono attorneys I met, only two spoke Spanish. There may have been more pro bono attorneys who were bilingual; however, I did not

have the opportunity to meet them. There were some private attorneys who did pro bono cases and who were bilingual, as well some who spoke Spanish as a second language.

On the government side, I was able to observe a total of 10 trial attorneys. Three of the ten trial attorneys spoke Spanish. The bilingual variable was important for this study, since attorneys who understood Spanish would often interrupt the interpreters to correct them.

5.3.2.2. Attitudes of Attorneys toward My Presence.

As was explained above, interpreters would often introduce me to defense attorneys so that I could begin to gain the confidence of their defendants. After being introduced to these attorneys and explaining my study, I was able to gauge their reactions. In general, defense attorneys were receptive and willing to help me with my study. These attorneys would explain to their defendants that there was no risk associated with participation in my study. Some defendants felt more comfortable about participating after hearing that their attorney was aware of my presence and understood the purpose of my study. Even though defendants did not need their attorney's approval to participate in this research, they displayed a more positive attitude after learning that their attorney supported the goals of my study. They wanted to make sure that my presence would not interfere with the immigration proceedings. Thanks to the attorneys' willingness to help me, I was able to gain easier access to defendants. These attorneys would see me on a regular basis in court and would notify me if they were going to have a full hearing in Spanish, either on that day or the next day.

Both private and pro bono attorneys cooperated with me on this aspect of my study; nevertheless, more of the private attorneys refused to have their defendants participate. According to one of the interpreters, pro bono attorneys are more liberal, thus they like to share information and disseminate knowledge. Furthermore, my presence could have caused anxiety

among private attorneys because they knew the immigration tapes would provide a record not only of the interpreter's performance, but of their own as well. According to this interpreter, one of the reasons a private attorney might display a negative attitude toward my presence was fear of embarrassment. It is possible that these private attorneys could have been afraid that I might evaluate their performance. This interpreter, in a personal communication, notes:

They [lawyers] may know they are going to lose a case. They don't want to look bad in front of you. They will want to impress you when they know they have a chance to win the case. In those cases, it is more likely that they will convince their clients to sign the consent.

After that comment was made, I devoted more attention to keeping track of which attorneys did not want my presence and whether or not they were from the private or the public sector. One time a private attorney told me that I did not have any right to request the tapes. Moreover, he told me that the Executive Office of Immigration Review would not consent to giving me the tapes. After I explained to him the guidelines I had to follow to obtain hard data, namely the tapes of the immigration hearings, he still insisted that there was no law that would allow me to have access to the tapes. I replied that I was able to obtain the tapes through the Freedom of Information Act (FOIA) and that I had done so with other cases. He remained quiet and acknowledged that I was right, yet he did not let me approach his defendants.

5.3.2.3. Attitudes of Attorneys toward the Judge and the Interpreters

In general, defense attorneys displayed great respect for judges and interpreters. Attorneys tended to classify judges based on their professionalism and their attitude toward specific cases. For instance, regular defense attorneys knew that X judge was more liberal than Y judge, and that a liberal judge was more likely to render a favorable oral decision than was a conservative judge. Defense attorneys would also classify judges on the basis of their promptness in finishing

a case. Attorneys also had preconceived notions about the linguistic abilities of the interpreters. Some attorneys seemed to show bias against some of the interpreters, especially if these interpreters did not seem to understand the defendant's dialect.

On several occasions, defense attorneys shared their frustration with bad interpreting in past cases and at sites other than the immigration court under study. There were instances in which attorneys invited me to observe their cases because they wanted me to notice how the interpreter's cultural background could interfere with that of the defendant and ultimately change the interpreter's rendition of the defendant's testimony. Many attorneys believed that an interpreter's cultural background could prevent her/him from being successful in communicating social and cultural aspects of the defendant's discourse. Even though attorneys did have a harmonious relationship with interpreters inside and outside court, some bilingual defense attorneys would complain about the interpreters' sociocultural and sociolinguistic skills. Intercultural constraints can very well put the defendant at a disadvantage, since quite a bit of information gets lost if the interpreter is not familiar with the defendant's cultural milieu. One time an attorney shared with me her frustration with bad interpreting. She said that she had lost several cases due to poor interpreting. Attorneys in general come to blame interpreters for not being able to understand and interpret important cultural aspects of the defendant's use of language.

One interpreter shared her thoughts with me, stating that she thought immigration interpreters should be called "immigration translators" instead of interpreters. She wanted to highlight the fact that interpreters translate word for word most of the time and pay little attention to the defendant's cultural background and how it is conveyed linguistically. Therefore,

bilingual attorneys may have reason to be dismayed when they encounter interpreters who are unable to attend to important cultural aspects of the defendant's discourse.

5.3.2.4. Attorney Requests for Adjournment.

In the previous section, the main reasons for adjourning cases were outlined. Attorneys play a crucial role in adjourning cases. Frequently, defense attorneys ask the judge to adjourn a case because they are unable to present the proper equity, i.e., documentation. Defense attorneys want to have the greatest amount of time possible to collect information that will bolster their defense. Whether the defendant deserves more time or not is up to the discretion of the judge. However, it is common knowledge that defense attorneys want the immigration judge to adjourn cases as often as possible. Given that immigration law is subject to change depending upon the administration in power at the time and the international and national events that affect immigration law, defense attorneys want cases to be adjourned for as long as possible in hopes that the law will change in favor of the defendant. During the course of my collection of ethnographic data, I was able to witness instances in which the defense attorney would tell his client that the request for adjournment was for the sole purpose of waiting to see if immigration law would change in the near future. Immigration judges are aware of this practice. They exercise their discretion after analyzing the case and making a decision as to whether the defendant deserves the aforementioned adjournment.

5.3.3. The Players: Interpreters

5.3.3.1. Ethnic and Linguistic Background of Interpreters.

A total of nine interpreters were observed in this study. They all came from different backgrounds and had varying amounts of interpreting experience. There were interpreters from Spain, Puerto Rico, Colombia, Panama, Peru, Argentina, Nicaragua, and the United States. Their

linguistic ability varied. Seven of the nine were immigrants to the United States and had emigrated from their native countries a number of years ago. Two were of Hispanic descent but had grown up in the United States.

Ervin and Osgood (1954) distinguish two types of bilingual: the coordinate and the compound. The coordinate bilingual is one who has learned each language in a different environment. The coordinate bilingual has acquired the second language by associating a given word in one language with a corresponding word in the other. On the other hand, the compound bilingual has learned both languages in the same environment by associating a given concept with words in the two languages. The compound bilingual's ability to switch back and forth from one language to another is greater than that of the coordinate bilingual (Ervin & Osgood, 1954).

Based on Ervin and Osgood's (1954) classification, the interpreters I observed in immigration court could be classified as coordinate or compound bilinguals: there were two compound interpreters and seven coordinate ones. Compound interpreters may seem to have a better command of both languages since they grew up learning both languages at the same time. Nevertheless, my data show that some of the coordinate bilingual interpreters performed as if they were compound ones. Factors such as age, experience, the immigration judge, and the case itself may have helped these coordinate interpreters to do such a great job.

5.3.3.2. Certification.

Public Law 95-539, the Court Interpreters Act of October 28, 1978, was created to establish a program to provide interpreters in the U.S. federal court system. This act requires that qualified interpreting services be provided to those whose first language is not English:

The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in courts of the United States in bilingual proceedings and proceedings involving the hearing impaired (whether or not also speech impaired), and in so doing, the Director shall consider the

education, training, and experience of those persons. The Director shall maintain a current master list of all interpreters certified by the Director and shall report annually on the frequency of requests for, and the use and the effectiveness of, interpreters. The Director shall prescribe a schedule of fees for services rendered by interpreters. (Public Law 95-539, Court Interpreters Act, as cited in Berk-Seligson, 2002, p.245)

The creation of a certification process was imperative in order to ensure that linguistic minorities have equal access to the courts. The federal law of 1978 created and implemented the Federal Court Interpreter Certification Examination (FCICE) in 1980. The FCICE was in charge of introducing the concept of performance-based testing geared to the courtroom-interpreting environment. The federal court interpreter certification examination is known to be one of the most rigorous. The FCICE states the following:

The requirements for passing the examination and for becoming certified in federal court reflect the knowledge, skills, and abilities required for court interpreting and the difficulty of the work. Consequently, the hundreds of interpreters who have passed the FCICE since 1980 have become an important resource throughout the country. They serve not only as practicing interpreters in the federal courts, but as test raters for the FCICE itself and for state court testing programs. Many also serve as consultants for training programs and the development of tests of interpreting skills (Administrative Office of the United States Courts, 2004, 1.1)

Certification as either a translator or an interpreter is also offered at the state level. The state in which this study was conducted provides prospective interpreters or translators the option of becoming certified by taking a court interpreting examination and being registered at the Administrative Office of the Courts (AOC). Interpreters and translators must attend and complete the Seminar on the Code of Professional Conduct for Interpreters, which is offered several times during the course of every year. “State court interpreters are able to serve in such cases as those involving personal injury, small claims, landlord/tenant disputes, domestic

violence, child support, sexual assault, drug offenses, arson, or illegal gambling” (Mintz, 2002, Pt. 17).

None of the immigration interpreters involved in this study held either state or federal certification. One of the interpreters had taken the Federal Court Interpreter Certification Examination. He claims to have passed the written part but failed to pass the oral one by 8 points. The Federal Court Interpreter Certification Examination is infamous for its difficulty. Its fees are \$125 dollars for the written part and \$175 for the oral part. The exam is offered on specific dates but is not offered in all states. The interested person has to travel to wherever the exam is being held. In light of the myriad changes INS has undergone, those who want to become immigration interpreters have to obtain certification through a particular interpreting agency and also pass a background check. This is a new requirement for those who want to serve as immigration interpreters. Until 2002, interpreters only had to pass an oral exam.

5.3.3.3. Agency Interpreter Assessment

The main goal of the interpreting agency’s exam is to evaluate the future interpreter’s linguistic skills in both languages, namely English and the target foreign language. Candidates must interpret in both directions; in other words, they will be evaluated interpreting from English to the foreign language and vice versa. Specifically, the candidate will be evaluated using the consecutive mode of interpreting. The skills to be assessed are rate of delivery, completeness of sentences, and fidelity of the message as conveyed in both languages. Linguistic elements such as hesitations and hedges are also evaluated. The interpreting agency wants to ensure that their interpreters transfer meaning promptly. Prospects are also evaluated on their accent, to ensure that the candidate’s accent will not jeopardize understanding of the words or messages. This exam is administered orally over the phone. The following is a description of the test:

The [commercial interpreting agency] Interpreter Exam is a prerecorded, oral test that is administered over the telephone from our Washington, D.C., office. Both the original text and its interpretation by the candidate are recorded. A [commercial interpreting agency] test administrator contacts the candidate at a scheduled time and explains the instructions for taking the test. A qualified, tested, and trained [commercial interpreting agency] test evaluator assesses and scores each candidate's test. Each of our test evaluators must successfully complete a comprehensive evaluator-training program as well as several years of practical interpreting experience in the field. The candidate is rated using a standardized scoring tool and is graded on foreign language proficiency, English language proficiency, and interpreting skills. (This citation is not given in order to protect the identity of the commercial interpreting agency.)

In addition to the examination, candidates must submit to a background check. Candidates agree to have this commercial interpreting agency check their fingerprints and obtain any and all records needed to verify their good character. This certification system is fairly new. None of the interpreters who participated in this study had to go through this new system. They only had to take a test administered by this commercial interpreting agency via telephone in order to be certified to work as an immigration interpreter.

5.3.3.4. Interpreting Agency Contract with INS.

The commercial interpreting agency that employed the interpreters I observed for this study was the leading provider of interpreting, translation, localization, and technical writing services worldwide. This company was formed in 1997 through the acquisition of a number of other companies. It was a well-established firm that offered interpreting and translation services for more than 60 languages. Its global headquarters were located in New York. This company provided interpreters in the needed language at the request of the court. The field site INS office provided this company with a schedule of those hearings that would require an interpreter, and the company was in charge of contacting the necessary interpreters for all cases in which linguistic assistance was needed. There was a coordinator at this company whose job was to

contact interpreters and assign them to cases. Calls assigning cases were made either a week in advance or a day in advance.

All immigration interpreters were freelancers; thus, they were at liberty to accept a given case or not. Interpreters had a contract with this commercial interpreting agency but did not enjoy any benefits. They were paid on an hourly basis, so that if they were not able to interpret on the scheduled day, they were not paid. Furthermore, interpreters were assigned cases based on demand. There were times where there are no cases in Spanish or not enough cases in Spanish to necessitate assigning more than one interpreter at that time. Interpreters in general complained about the lack of job security in the interpreting profession. Because they were not hired by the immigration office directly, they had no job security. It was very likely that this situation affected the quality of their interpreting.

Interpreters who had been assigned a hearing were required to sign in with the clerk at the immigration office reception area at least half an hour before (and be in the courtroom at least 15 minutes before) the assigned hearing was scheduled to begin. In contrast, trial and defense attorneys were not required to sign in or out and often arrived late to the proceedings without suffering any negative consequences. The commercial interpreting agency provided interpreters with a form called the Certification of Interpretation form (COI). They had to fill it out with the alien number of the case, the judge's name, and the time of the hearing. The COI had three copies: white, pink, and yellow. After the hearing was closed, the judge dismissed the interpreter by signing the copies. The interpreter had to submit the white copy of the COI to the commercial interpreting agency, the pink copy to the immigration office for their records, and keep the yellow copy. The judge would indicate the start time and the release time for the interpreter and make comments on the interpreter's performance. The interpreter then had to sign out at the

clerk's office and mail the white copy to the agency in order to be compensated (interpreters are compensated on an hourly basis). This practice became automatic, especially for interpreters who had worked for the company for years. However, first time interpreters had to get used to obtaining many signatures and following many complicated rules in order to submit their paperwork correctly and get paid by the commercial interpreting agency.

5.3.3.5. Interpreter Salaries.

Salary was a taboo topic among interpreters. Each interpreter was paid at a different rate, depending upon the individual's credentials, experience, and negotiation skills at hiring. Interpreters did not talk about how much money they made or what negotiation strategies they had employed in negotiating with the commercial interpreting agency. According to one interpreter, salaries range from \$25 to \$35 dollars per hour. Some interpreters feel that because Spanish is a popular foreign language, interpreters of Spanish are not paid as much as are those who speak foreign languages that are not quite as common. Some of the immigration interpreters of Spanish also noted in our conversations that forming an association to represent the Spanish interpreters in the field site area could have helped them negotiate better salaries with the commercial interpreting agency. One interpreter recalled that interpreters of other languages had formed associations for support and to help them obtain fair salaries.

Interpreters did reach some level of frustration with the payment system of the commercial interpreting agency. Even though interpreters recognized that they would not be able to make a living out of the job, they at least expected to get paid within a reasonable amount of time. However, many interpreters shared their frustration at waiting, sometimes for a month, to get paid. One interpreter shared his disappointment on this matter and also remarked that their

employer's lack of commitment to the interpreting profession affected their willingness to continue working as interpreters.

Another situation that affected interpreters' attitudes toward the profession was that interpreters often had to wait for hours for their cases to go through, only to have the case be adjourned or canceled. Sometimes they were paid for the time they had spent waiting for the hearing to begin, especially if it was more than half an hour; when it was less than half an hour they often were not. However, it was up to the judge to record the interpreters' hours, and some judges were notoriously stingy in counting the interpreters' time. This practice affected interpreters economically and made them feel their job was not considered important to immigration officials. These conditions of employment made interpreters feel that their professionalism and higher education were not respected. Over time, such conditions may have caused interpreters to become demoralized, ultimately affecting their motivation and the quality of their interpreting.

5.3.3.6. Role of the Immigration Interpreter Coordinator.

The role of the interpreter coordinator was to serve as a liaison among interpreters, judges, and the agency. Coordinators were appointed by this agency based on experience, quality of interpreting, and good rapport with judges and other interpreters. The coordinator also worked on an hourly basis. The coordinator's duties were to evaluate the other interpreters' performance every three weeks in writing, to resolve any problems or complaints that might arise in the workplace with the interpreters or with the judges, and to ensure that a collegiate environment prevailed among interpreters and immigration officials. The coordinator also made sure the interpreters arrived on time. If for any reason an interpreter was tardy and the hearing was about to begin, it was the coordinator's job to either find a replacement or serve as interpreter. The

coordinator was also an appointed interpreter; therefore, she was also able to serve as one if she was not already interpreting for another case.

The coordinator in the field site office was a compound bilingual. She was able to interpret from English to Spanish and vice versa. Since the coordinator functioned as an interpreter as well, she only went to court when appointed. That is to say that she was not able to resolve any problems that might arise when she was not there. My ethnographic observations show that she had an excellent rapport with other interpreters, judges, attorneys, and other employees. The coordinator was not expected to hold any type of interpreting workshops. Even though some interpreters would ask this coordinator about how to interpret some expressions, she was not a certified interpreter, nor did she hold any type of interpreting accreditation. Nevertheless, this coordinator's linguistic skills in both languages were excellent.

5.3.3.7. Interpreter Attitudes toward Judges, Attorneys, and Defendants.

Most of the interpreters had worked at this office for more than two years. They had become acquainted not only with the immigration interpreting process but also with judges and attorneys, and with the discourse style of the defendants. As I noted in my ethnographic observations, the interpreters I studied had learned to adapt to all the judges' styles and demands on their interpreting skills. Some of the immigration judges preferred simultaneous interpreting to consecutive interpreting. Interpreters knew and complied with their demands. They also classified the judges based on their experience of observing these judges' court hearings. According to some interpreters, some immigration judges were more liberal and some were more strict than others. Interpreters also had their own opinions on defense attorneys and trial attorneys. They classified them according to their skills as lawyers and their devotion to the profession. As was mentioned above, there were some attorneys who spoke Spanish. This

variable was not a problem for interpreters in general. However, because bilingual attorneys are able to understand and monitor the performance of the interpreters, some of these attorneys did complain about their performance. This phenomenon led interpreters in turn to classify defense attorneys according to their level of bilingualism.

Interpreters also had opinions on the discourse of the defendants. Many believed they could tell whether a defendant was telling the truth or not. They were used to hearing testimony for long hours, and some had been interpreting for many years. These interpreters believed, based on their experience, that defendants who repeat the same story over and over don't have an argument that is good enough to support their case. These interpreters also believed that many defendants had been handed a prefabricated story to tell in court, making their discourse repetitive and lacking in credible examples that would support their story. Interpreters also based their analysis on defendants' use of hesitation devices. They believed that the discourse of defendants who were telling the truth would sound assertive, since there was no made-up story to remember.

The immigration interpreters I observed played yet another consequential role. Besides being interpreters, they sometimes acted as guides for defendants who did not know where to look for an attorney or in which department to file their paperwork. Most of the time, interpreters could be found in the waiting room, waiting for the assigned hearing. There were always some defendants who were clueless as to what steps they needed to take in order to come prepared for their final hearing. The interpreters were kind enough to provide the necessary information to defendants so that, for example, they would come with an attorney to their full hearing. Interpreters provided this kind help off the record and they were not remunerated for this type of service.

5.3.4. The Players: Immigration Judges

Immigration judges have authority to adjudicate under U.S. immigration law exclusively. Immigration proceedings are civil and criminal processes. Immigration judges have jurisdiction under the immigration and naturalization code as provided by the Attorney General of the United States. However, there are some criminal matters that involve the immigration process, such as removal proceedings of criminal aliens. (Removal proceedings were known as deportation proceedings before 1997.) If a resident alien, also known as a green card holder, has a conviction for crimes such as moral turpitude (CIMT), for example, the immigration service can attempt to have the person deemed an undesirable alien and removed. These defendants are also detainees who have the right to plead their case in immigration court. The immigration judge may issue a bond so the defendant can avoid detention during the trial and the appeals process. The immigration judge can have an undesirable alien removed but cannot issue criminal penalties. If a defendant's lawyer wishes to argue that the client's civil rights and due process have been violated, this must be done in federal court. Criminal convictions are also governed by the laws of the state where the conviction occurred. For instance, the penalty for shoplifting in one state is less severe than in another state. Therefore, a defendant convicted in the first state has a more favorable removal case than one convicted in the second.

The Office of Immigration Review in the field site area had a total of seven judges during the time I was collecting this data. This study comprises the observation and the analysis of cases decided by only six of the seven immigration judges. The reason for this has to do with the seventh judge's attitude. This judge in particular held closed-door hearings. Also, this immigration judge was not fond of allowing observers access to the courtroom on a regular basis.

Before beginning the data collection, I introduced myself to all the judges and requested permission to sit in their courtrooms. One judge told me I did not even need to request permission because, as a student, I had a right to observe immigration cases. Even though the other six judges knew the nature of my study and I had gained their trust, the seventh judge was still uneasy about my presence and refused to allow me to enter her courtroom to observe the proceedings, despite the other judge's assertion that I did not even need to request permission because I had the right to observe any immigration hearing of my choosing.

5.3.4.1. Monolingual vs. Bilingual Judges.

Of the immigration judges I observed, only three spoke Spanish. Two of these judges were coordinate bilinguals; in other words, they had learned both languages in the same environment. The third had learned Spanish as a second language as an adult. Although this judge had a superior command of the Spanish language, the judge's accent was not native-like. Therefore, in several instances defendants displayed some difficulty in understanding this immigration judge. At times, the defendant would simply answer "yes" just to come up with an answer to the judge's questions, even though it was not at all clear that the defendant had fully understood these questions.

Immigration court proceedings in the United States are conducted orally in English and recorded in English. Even though there were defense and trial attorneys who spoke Spanish, they could use only English in the courtroom. English is the official language of the court; bilingual interpreters are the only ones permitted to address defendants and witnesses in Spanish. Their interpreting is recorded by the immigration judge, who has control over the tape-recording process, and who also has discretion over what parts of the discourse are to be considered part of the hearing and are therefore to be put on the record. That is to say that the immigration judge

does not record the negotiations that take place among attorneys and judge, whether these take place in Spanish or English.

Having a bilingual judge presiding over a given case could be very beneficial to all the parties to that case. A bilingual immigration judge is able to monitor the interpreter's mistakes, or guide the interpreter through dialectal difficulties, especially those involving lexicon. The following excerpt illustrates how a bilingual immigration judge may interrupt to clarify the interpreter's rendition:

Excerpt 2 is taken from Case 8.

2.1 Immigration Judge: When did you get it here, when you got your driver's license in the Commonwealth of Puerto Rico?

2.2 Interpreter: ¿*Cuándo la obtuvo usted en el en el en Puerto Rico?*

2.3 Defendant: *Ah, fue después de...*

2.4 Immigration Judge: *[Estado libre asociado]=*

2.5 Interpreter: ¿*Estado?*

2.6 Defendant: *Libre asociado.*

2.7 Interpreter: Okay, thank you, thank you, hehehehehe...

The immigration judge wanted the defendant's interpretation to be as faithful to the intended meaning as possible. Upon noticing the interpreter's lack of precision in rendering his question in Spanish, that is, the omission of the word *commonwealth* from the utterance *Commonwealth* of Puerto Rico, the bilingual immigration judge took the floor to correct the interpreter and supply the term for *commonwealth*, which is *estado libre asociado*. In many instances, the immigration judge would take the floor to explain vocabulary indicating socio-economic status. For instance, the following excerpt clearly shows that the immigration judge wanted the low economic status of the defendant to be indicated in the record:

Excerpt 3 is taken from Case 8.

3.1 Defendant: No, my wife se fue a vivir a residencial Los Cedros otra vez, porque ahí...

3.2 Interpreter: My wife... (0.2)

3.3 Defendant: *Residencial Los Cedros...*

3.4 Interpreter: She went to live in the residencial Los Cedros...

- 3.5 Defendant: I mean *ella, ella tiene su familia en ese residencial, tiene su apartamento...*
- 3.6 Interpreter: She has her family in that residency, ah ah ah; she has her own apartment...
- 3.7 Immigration Judge: She has her own apartment in the uh uh in the uh...
- 3.8 Defendant: *Sí, ella vivía...*
- 3.9 Interpreter: *Ella tiene su apartamento propio en ese...*
- 3.10 Defendant: No, no, I don't know *si es propio, no sé, porque primero ella se fue a vivir con la mamá, y luego sé que consiguió un apartamento con el gobierno, no sé, con...*
- 3.11 Interpreter: First of all she went to live with her mother, then she went to I don't know if with the government or what got her apartment...
- 3.12 Immigration Judge: For the record, I want to explain something. He is referring to *residencia*. He used the term *residencia*; now that normally means low income housing in Puerto Rico, okay? So that's what it means.
- 3.13 Defense attorney: Oh, right.
- 3.14 Immigration Judge: He said, "Residencial Los Cedros."

The immigration judge, who happens to know very well the semantic and social connotations of this term in the Puerto Rican dialect, takes the floor to state for the record that the economic/social status of the defendant was low. In his attempt to answer the immigration judge's question, the defendant replied that he lived in a *residencia*. The interpreter was not aware of the socio-economic implications of the word *residencia* or that this word choice could have been significant in establishing a clear image of the defendant. Thanks to the immigration judge's bilingual linguistic abilities, the defendant was able to make clear that he lived in low-income housing, and convey that he was poor. These examples illustrate the importance and the relevance of having a bilingual immigration judge.

5.3.4.2. Attitudes of Judges toward Interpreters, Attorneys, and Other Judges.

Both monolingual and bilingual judges recognized the hard and intricate work interpreters perform. In my formal and informal interviews with immigration judges, they all acknowledged that interpreting involves more than translating word for word. Immigration judges realize that different defendants will have different dialects, all within the same language. Language nuances are not easy to handle, especially when interpreters are under pressure to deliver the message

within seconds of hearing it. One immigration judge felt that defendants, attorneys, and witnesses could easily develop a negative attitude toward interpreters, especially when they blame the interpreter for the negative outcome of the hearing while they are still in court. Therefore, according to this immigration judge, it is the judge's job to ensure that the interpreting runs smoothly so as to maintain order in the court. The salient question here is how an immigration judge evaluates whether an interpreter is doing a poor job interpreting or not. Constant complaints from attorneys, as well as confusion and misunderstandings that seem to be caused by the interpreter, alert the immigration judge to difficulties the interpreter may be experiencing in attempting to interpret. The immigration judge explained that in such a situation, it is the immigration judge's duty to correct the mistakes or misunderstandings and to set the record straight. One immigration judge stated this in the following way: "I have noticed a defendant getting angry at the interpreter and giving the interpreter an attitude because the defendant was blaming the interpreter for the outcome of the hearing. As a judge, I have to make sure the interpretation runs smoothly. I noticed some tension, so I asked the interpreter to interpret everything."

The immigration judges had their own impressions of the interpreters' linguistic skills. Both monolingual and bilingual immigration judges agreed that all the Spanish interpreters were highly competent and had an excellent command of both languages. All the judges asked interpreters to do consecutive interpreting except one, who liked interpreters to do simultaneous interpretation. On numerous occasions, interpreters shared not only their anxiety at working with this judge but also their fatigue, since this judge in particular liked interpreters to interpret word for word. Bilingual immigration judges feel they also have a linguistic role when it comes to monitoring each interpreter's performance. Even though they may have trusted the interpreter's

linguistic competence, every now and then judges would intervene to clarify a concept or to provide a translation of a word that the interpreter seemed to be having some difficulty interpreting. There were also cases in which an interpreter did not show the necessary linguistic competence. In such cases, the immigration judge has the authority to dismiss the interpreter.

With respect to attorneys, immigration judges had varying opinions toward them. In general, some judges complained that some defense attorneys were taking advantage of their clients, wasting not only the immigration judge's time, but also the defendant's money. On several occasions, immigration judges stated their disapproval of the defense attorney's handling of such cases. Because of their broad experience with immigration hearings, immigration judges are able to determine—by studying the defendant's equity (documentation in the defendant's favor)—what avenues of relief the defendant deserves, and are often able to predict the outcome of the hearing. Defense attorneys often agree to defend a case even when they know there is no avenue of relief for the client. Immigration judges ask such defense attorneys what type of relief they are seeking, even though they know the defense attorney doesn't have a case. On a number of occasions, immigration judges showed their displeasure upon seeing an attorney trying to defend a case without presenting the right equity, i.e., hard evidence. In one case I observed, the immigration judge explained to the defendant what he was entitled to and what he was not entitled to. This explanation was off the record and it was done in Spanish. This immigration judge happened to be bilingual, Spanish being her second language. This judge shared with me her frustration with defense attorneys who don't explain to their clients what has happened in court and don't let their clients know whether they have a case or not. This immigration judge explained to the defendant in Spanish what he needed to do and what papers he needed to file.

She confessed to having some sort of sympathy toward the defendant since she felt the defense attorney was taking advantage of his client.

An immigration judge's attitude toward the defense attorney is also determined by the seriousness and respect the attorney shows the judge. When a case has to be adjourned because the defense attorney does not show up and has no compelling reason for being absent, immigration judges regard such absence as an offense to the court and as demonstrating a lack of respect for the judge. Cases are also adjourned upon the defense attorney's request. Defense attorneys may request permission to bring an expert witness or simply another witness to bolster their equity, and may therefore need more time. If the immigration judge grants the defense attorney this permission, the case has to be adjourned. Immigration judges are not fond of this practice, especially when they know the defendant doesn't have any other avenue of relief. They consider it a waste—of the immigration judge's time and the government's money—since they will have to pay the interpreter to come again the next time the case is scheduled.

The observations I carried out were crucial to my understanding of the ethnography of the site under study. They enabled me to understand the framework of these hearings, and to gain important knowledge about the roles of the major players in immigration hearings and the dynamics among them. This phase of the study provided an essential foundation for my analysis of the players' linguistic choices.

6. CHALLENGES TO GOOD INTERPRETING

6.1. INTRODUCTION

An interpreter's main ethical and linguistic responsibilities are to maintain the legal equivalence of the source language (SL) in the target language (TL). As stated in the literature review, maintaining legal equivalence means respecting the speaker's language level, style, tone, and intent in the target language. Berk-Seligson (1999), Morris (1999), Alvarez and Vidal (1996), and Hale (1999) demonstrate that good interpreting is affected not only by the linguistic content of the utterance but also by various social, cultural, and psychological variables. Interpreters are thus constantly confronted with both linguistic and pragmatic challenges to quality interpreting.

Hale (2004) explains that different scholars have different views on the importance of maintaining accuracy. On the one hand, there are those "who believe in maintaining accuracy of propositional content alone, with liberties to change style and register (Conomos, 1993; Barsky, 1996); on the other, those who believe in literal, verbatim interpretation, especially in the legal system" (Wells, 1991, as cited in Hale, 2004, p.3). Hale explains that scholars such as Berk-Seligson (1990), Virginia Benmaman (1997), and Dueñas González et al. (1991) advocate maintaining the accuracy of the message by accurately conveying the intention of the speaker. Like Hale and the scholars just mentioned, I adopt this pragmatic view of accuracy in

interpretation. I concur with their contention that interpreters must strive to respect the illocutionary force of the propositional content of the utterance.

Researchers such as Morris (1999), Berk-Seligson (1990), and Hale (1999) identify the challenging circumstances interpreters encounter—circumstances that can create linguistic and cultural confusion and miscommunication. Eta Trabing (2002) also recognizes the difficulties interpreters unavoidably experience. According to Trabing, “interpretation is above all comprehension—If the original message is correctly understood, then words can always be found to retransmit that message in another language” (p.11). The question is what happens when the original message is misunderstood. Trabing explains as follows:

If the gap between new and existing knowledge is too great, a connection cannot take place and comprehension does not occur. If you cannot get the idea of something through logical deduction and connection to some pre-existing information, then you will miss the point of the idea. (p.11)

Interpreting so as to be able to produce legal equivalence thus involves first understanding the meaning of what has been said. If comprehension is faulty, the process of interpreting will be faulty as well. The task of interpreting is complex. Scholars agree that the process entails comprehension, conversion, and delivery (Hale, 2004). Furthermore, Trabing (2002) states, interpreters must relate the meaning of new concepts to their pre-existing knowledge. In other words, interpreters are “bound by their language resources in expressing their ideas” (Hale, 2004, p.3). According to Hale, accurate interpreting that maintains legal equivalence precludes a bottom-up approach, “that is, interpreting word for word and hoping that at the end the same meaning will be achieved at the top level” (p.5).

However, delivering the message using only pre-existing knowledge does not guarantee that legal equivalence will be maintained. In addition to requiring word-for-word recognition,

accurate interpreting must be approached with both a *semantic* and a *pragmatic*, or discourse, view of the utterances. “*Pragmatics* refers to the meaning of words in context and the appropriate use of language according to tongue, culture, and situation” (Hale, 2004, p.5). According to Yule (1996), the advantage of taking a pragmatic approach to language is that “one can talk about people’s intended meanings, their assumptions, their purposes or goals, and the kinds of actions (for example, requests) that they are performing when they speak” (p.5). Pragmatics is the study of the relationship between people and the linguistic forms they use to do things with words (Austin, 1962). Therefore, interpreters need to pay attention to the context, culture, and situation in which witnesses and defendants find themselves in order to make sense of their linguistic accounts, maintain legal equivalence, and avoid putting these witnesses and defendants at a linguistic disadvantage. A word-for-word translation would violate the legal equivalence of the utterances of both defendants and witnesses.

At the immigration hearings I attended in carrying out this research, I observed that interpreters were able to construct a given courtroom reality as they either mitigated or magnified the culpability of defendants through a variety of linguistic mechanisms: inaccurate lexical choice; alteration of verbs and verb tenses; leaving some Spanish words and phrases in Spanish when interpreting from Spanish to English; use of definitions rather than equivalent words and phrases; and inaccurate use of discourse markers and hesitation forms. Furthermore, interpreters failed to provide the legal equivalent of the source language in the target language when they were either unable or unwilling to match the pragmatic force of the original in their target language rendition. On several occasions, the judge and attorneys indicated by their responses that they had clearly been influenced by the interpreter’s lexical choices, demonstrating that the linguistic manipulations of the interpreter can influence participants in judicial proceedings.

Interpreters also overlooked defendants' use of discourse markers and hesitation forms such as *ah*, *eh*, and *mm*, possibly because they did not consider them to be linguistic devices of any consequence. Likewise, the data show interpreters adding these ostensibly meaningless particles when stalling for time in search of an equivalent expression in the target language for those lexical or idiomatic expressions from the source language that were unfamiliar to them. Such additions changed the illocutionary force of the defendant's utterances. Finally, the data also show that the intrusiveness of these interpreters changed the pragmatic force intended by the speakers, which constitutes a violation of the ethical standards set for interpreters by authorities such as the Federal Judicial Center.

In this chapter, I will show what linguistic challenges interpreters face in consecutive interpreting and demonstrate the linguistic mechanisms by which their renditions become coercive. In this chapter I will also show how the lexical and syntactic choices interpreters make and the changes in pragmatic force they bring about alter the defendant's testimony, damage the defendant's credibility, and may even affect the outcome of the case itself. The focus of the analysis is on the interpreter's rendition of the testimony of witnesses and defendants; the goal is to determine whether the interpreter's rendition has indeed had any impact on the outcome of the hearing. In many of the excerpts I have selected to present, interpreters not only altered the lexicon and syntax of the defendants and witnesses, but also that of the defense attorneys, thus reconstructing their questions in the direct examination.

6.2. THE IMPACT OF LINGUISTIC CHOICES IN THE LEGAL SETTING

Conley and O'Barr (1998) examined how power is established through discourse. They observed that rape victims are revictimized by virtue of the coercive linguistic mechanisms used in cross-examination and that these coercive strategies serve to reinforce the social and power differences between men and women: The basic linguistic strategies of cross-examination are methods of domination and control. When used against the background of the rape victim's experience, they can bring about a subtle yet powerful reenactment of that experience (Conley & O'Barr, 1998, p.37).

Thus, linguistic choices enable participants to reconstruct events according to a particular perspective. Danet's (1980) analysis showed how the prosecution also manipulated lexical choice to mitigate the culpability of an abortion performer. Other scholars such as Berk-Seligson (2002) demonstrate how linguistic choices may become coercive. She showed that whatever power an interrogating attorney may have over a testifying witness or defendant is inevitably affected by the verbal role of the interpreter. Lexical choices as well as grammatical ones may play an important role in mitigating or magnifying the culpability of the accused.

Interpreters also play a compelling role in reconstructing events from a particular perspective. Cecilia Wadensjö (1998) explains that the role of the interpreter is normally considered to be one of non-involvement. However, she argues that in interpreter-mediated interactions "the meaning conveyed in and by talk is partly a joint product" (Wadensjö, 1998, p.8). She also argues that both communication and miscommunication entail a reciprocal interaction between those involved in a given interaction:

When people engage in interpreter-mediated interaction, however, they may be seen—and see themselves—as doing all kinds of things, such as interviewing,

joking, arguing, complying, and so forth. This applies to interpreters and to other participants alike. (Wadensjö, 1998, p.9)

Wadensjö's position on interpreters is that they take on not only the role of translator but also that of an active builder and processor of speech, inevitably influencing the speech itself. Hale (2004) states that interpreters experience pressure from the various professionals who are parties to the proceeding and from non-English speakers. Morris's (1999) notion of the *gum syndrome*, in which the interpreter is likened to gum that is stuck to the sole of the defendant's shoe, reinforces this notion of dual responsibility. Hale and Luzardo (1997) found that defendants expected interpreters to assist them and to offer advice and moral support (in Hale 2004). These findings reinforce Morris's notion of the gum syndrome. Interpreters, then, are not only the coordinators of talk but also human entities who are able to influence the defendant's case. Although interpreters may be aware of their ethical guidelines, they are still influenced by defendants' expectations. Roy states, "interpreters don't have a problem with ethics, they have a problem with their role" (Roy, 1990, p.84, as cited in Hale, 2004, p.10). In addition, interpreters may or may not identify with defendants. Problems also arise when interpreters feel they need to polish the defendant's testimony for purposes of comprehensibility and coherence (Hale, 2004). When this is the case, interpreters greatly affect perceptions of the credibility and character of the defendant.

6.3. ANALYSIS OF THE DATA: THE LINGUISTIC ROLE OF INTERPRETERS

A court interpreter, ideally, enables judge and jury to react in the same manner to a non-English-speaking witness as to one who does speak English (Dueñas González et al., 1991).

Even when the testimony of both defendants and witnesses is given in Spanish, the interpretation in English is the version that remains on record. In cases in which the defense decides to appeal the judge's decision, a board of appeals reads the transcript of the case to analyze it and then render a verdict. The transcript is in English and only the interpreter's rendition is transcribed. The defendant's actual testimony in Spanish is neither recorded nor transcribed. As mentioned in Chapter 2, there is no jury present in immigration hearings. Therefore, it is the interpreter who gives the judge and the attorneys the ability to make judgments about the defendant's credibility, education, competence, intelligence, socioeconomic status, and cultural background, based on the interpreter's choice of linguistic style, register, and lexicon. Dueñas González et al. (1991) acknowledge that the interpreter's version becomes the record, and therefore the interpreter must maintain the standard of legal equivalence: "But since it is often impossible to find in the TL a direct equivalent for each word uttered in the SL, a truly verbatim interpretation is literally impossible" (p.17). The interpreter has the delicate task and responsibility of mediating between the verbatim equivalent and the need to convey a message that is meaningful in the TL. In other words, the interpreter has to convey the SL message in the TL without compromising the syntactic and semantic structure of the TL.

6.3.1. Introducing New Lexicon in the Interpreter's Rendition

The data show that not only do immigration interpreters reconstruct events and mitigate or magnify the culpability of defendants through their lexical choices; they also introduce new vocabulary that is later used by attorneys and immigration judges when they interrogate witnesses or defendants. The texts below show a relatively continuous flow of questions and answers in which the interpreter interprets the defendant's testimony in a slightly coercive manner. Reflecting the extent to which the interpreter can influence the defendant's testimony

through her choice of words, the defense attorney then repeats the interpreter's lexical choice in her next question:

Excerpt 1 is taken from Case 6.

1.1 Defense attorney: Okay, um, when did you become part of the Conservative Party?

1.2 Interpreter: *¿Cuándo fue que usted se eh convirtió en miembro del, del partido conservativo?*

1.3 Defendant: *En 1980.*

1.4 Interpreter: In 1980.

1.5 Defense attorney: And what made you become a member?

1.6 Interpreter: *Y que, y ¿qué hizo de que usted se convirtiera en miembro?*

Excerpt 2 is taken from Case 6.

2.1 Defendant: *Si yo había, si yo llevaba conmigo la muestra de lo que había encontrado en el carro...*

2.2 Interpreter: And if I had with me, uh, proof of what I had found on my car...

2.3 Interpreter: *Entonces ¿qué hizo usted esa noche?*

2.4 Defendant: *Bueno, esa noche, yo, o sea, en ese momento yo comprobé...*

2.5 Interpreter: In that moment I got proof...

2.6 Defendant: *Porque nuestro país está en las condiciones en que está...*

Excerpt 3 is taken from Case 6.

3.1 Defendant: *Ssi, si yo voy yo... ellos me matan...*

3.2 Interpreter: If I go back they will kill me...

3.3 Defendant: *Hacen retenes y caigo yo en un retén...*

3.4 Interpreter: They do, uh, eh, they pick up people and I fall in there...

3.5 Defense attorney: How is it that they pick up people?

3.6 Interpreter: *¿Cómo cogen hacen esos retén...cómo cogen a la gente...?*

In the case of the first excerpt, the interpreter interpreted the term *part of* as *member*. Prior to hearing this question, the interpreter had already heard the defendant state in her testimony that the Colombian armed guerrilla forces known as the FARC had persecuted her politically. It seems that the interpreter wanted to emphasize the defendant's involvement with a political party that opposed the political goals of the FARC. However, the defendant was not actually a member of any particular group. Because the defense attorney was a bilingual speaker of Spanish, she was able to take advantage of the interpreter's word choice and use the same lexical item in her next question, as can be seen in Line 1.5 above.

It may be inferred from Line 2.1 that the interpreter wanted the immigration judge to know that the defendant had gotten *proof* and not a mere *sample* (a more accurate translation of the defendant's term *muestra*) of the FARC's threat. The interpreter's decision to render a word meaning *sample* as *proof* changed the testimony, presumably to make it more powerful. By selecting one lexical item over another, interpreters have the ability to render testimony powerful or powerless.

Excerpt 3 shows how the interpreter diminished the force of the word *retén* in Spanish. *Hacer retenes* is in Spanish the equivalent of *to detain* in English, and implies holding people against their will. This example comes from a hearing in which the defendant claimed fear of future persecution at the hands of the guerrilla forces, but did not seem to be able to convince the immigration judge and trial attorney that he was indeed in danger of being persecuted. It may be that the interpreter herself did not believe the defendant's testimony either, and her interpreting was therefore not all that accurate. In any case, the immigration judge and other judicial parties heard *hacen retenes* rendered in English in Line 3.4 as the verb *pick up*, which has a connotation of being voluntary, rather than the much stronger *catch* (the sense of *retén* that best fits the situation), and therefore only *pick up* is in the official record. In Line 3.5, the defense attorney poses a question repeating the interpreter's term, *pick up*. However, in Line 3.6, the interpreter renders *pick up* as *cogen*, which is a direct equivalent of *catch*. Such inaccurate interpreting directly affects the defendant's credibility and the judge's perception of the severity of her situation.

The defense attorney's direct examination is being directly and overtly influenced by the interpreter's intrusion and linguistic coercion. One could argue that attorneys hear and repeat the interpreter's word choice because they don't speak Spanish and don't know what their

defendants are saying in the first place. However, the defense attorneys in these two cases do speak Spanish. They may have wanted to stay with the interpreter's lexical choice when it maximized the gravity of the defendant's situation. This immigration judge does not speak Spanish—nor does the trial attorney—and will only understand what the interpreter says. Although these questionable lexical choices were not introduced by the defense attorney but by the interpreter, some of them may in the end have helped to bring about a favorable outcome for the defense attorney's client. Others, however, may have had a detrimental effect. These examples illustrate the active and intrusive role interpreters can play in the reconstruction of the defendant's testimony through their lexical choices.

A similar process takes place in Line 4.1, in which the defendant explains that she was involved in youth brigades.

Excerpt 4 is from Case 4.

4.1 Defendant: *Y... y me vinculé a las brigadas juveniles.*

4.2 Interpreter: And I got, uh, involved in juvenile groups.

4.3 Defense attorney: Okay, what did they, the juvenile groups, do?

4.4 Interpreter: *Y ¿qué hacían los grupos juveniles?*

The primary meaning of *brigade* is a military one: "A military unit consisting of a variable number combat battalions." the secondary meaning emphasizes cooperation rather than militarism: "A group of people organized for a specific purpose: *formed a bucket brigade to carry water to the fire.*" It comes "from Old Italian *brigata*, from *brigare*, to fight, from *briga*, strife, of Celtic origin" (The American Heritage Dictionary of the English Language, 1992, p.238). The point is that the interpreter did not necessarily fail to accurately represent the actual situation, which was that the defendant had become involved with certain groups. However, in her decision to forego a literal rendering of *brigadas* as brigades and to interpret it according to its secondary definition, as groups, she significantly diminished the illocutionary force of the

defendant's word choice. The defendant specified the word *brigadas*, I would argue, in order to emphasize her active participation in groups that had been politically active against the FARC and to bolster her claim that she faced persecution by the FARC were she to be returned to Colombia. Yet the defense attorney repeated the interpreter's lexical choice in her next question even though it was most likely not to the defendant's benefit.

The data also show that the word *brigadas* was used in other hearings. Yet, interpreters came up with multiple ways of interpreting this word. Perhaps *brigadas* in particular is problematic semantically, since interpreters not only interpreted it in various ways but also had some difficulty interpreting it. Consider the following texts in which the word *brigadas* is present:

Excerpt 5 is taken from Case 6.

5.1 Defense attorney: And what did you do while you were working there?

5.2 Interpreter: *Y usted, ¿qué hacía cuando usted trabajaba ahí?*

5.3 Defendant: *Hacía todo lo relacionado con odontología y brigadas de salud.*

5.4 Interpreter: Uh, I did everything that was related to od-odontology and brigades health (0.4) brigades health.

5.5 Defendant: *Estas brigadas de salud consistían en asistir a las veredas...(0.3) a las veredas para atender a la gente de bajo recursos.*

5.6 Interpreter: It, it, it consisted health... helping people that ah they don't have enough money, low-income people.

5.7 Defendant: *En las brigadas de salud, salíamos el médico, salía la enfermera, eh vacunadores, odontólogos...*

5.8 Interpreter: The brigades... in the brigades of health, it was a doctor, there were nurses, there were uh odont... dentists.

Excerpt 6 is taken from Case 17.

6.1 Defendant: *En mi trabajo...*

6.2 Interpreter: With my work...

6.3 Defendant: *...yo participaba con unas brigadas de salud.*

6.4 Interpreter: ...I used to participate with the health unit.

Excerpt 7 is taken from Case 6.

7.1 Defense attorney: Who else was uh participating in these meetings?

7.2 Interpreter: *¿Quién más participaba?*

7.3 Defendant: *Esas brigadas de salud se hacían generalmente con enfermeras médicos, y las personas voluntarias.*

7.4 Interpreter: Those health meetings were with nurses with doctor and with voluntary people.

Excerpt 8 is taken from Case 17.

8.1 Defendant: *...porque estábamos en una brigada de salud.*

8.2 Interpreter: ...because we were having uh a health uh meeting.

8.3 Defense attorney: Where was uh where was the meeting going to be held?

8.4 Interpreter: *¿Dónde tenían esa brigada de salud? ¿En dónde?*

8.5 Defendant: *En una población que se llama Cisneros.*

8.6 Interpreter: In a village called Cisneros.

In Excerpt 5, *brigadas de salud* is rendered as *brigades health*. This is a literal translation from Spanish that nonetheless does not affect the immigration judge's comprehension. Although *brigades health* copies the word order from Spanish, it does not seem to interfere with the comprehensibility of the noun phrase. Since the judge never interrupted the defendant's story to ask for clarification, it must have been sufficiently clear. However, in Line 5.6 the interpreter simply fails to come up with an equivalent for *brigade*, leaving a kind of ellipsis in the testimony. The interpreter seems to experience trouble with its interpretation and resorts to the pronoun *it* to refer to *brigadas*. The use of the pronoun *it* does not clarify the antecedent, which could create confusion for the listeners, especially those who are monolingual. In Line 5.7, the defendant reiterates that he was affiliated with this health brigade and lists the types of professionals who also participated. As can be seen in line 5.8, the interpreter tries to repair his inaccurate interpretation by adding *brigades of health*, yet this is not exactly the equivalent of *health brigade*.

Excerpt 6 features a completely different interpretation of *brigadas*. This interpreter said *health unit*, which might be the best translation of the term. However, in Lines 7.4 and 8.2, *brigadas* is rendered as *meetings*, which is not the intended meaning of *brigadas*. The defense attorney adopts the interpreter's rendition of brigadas as meetings and uses it in her subsequent

questions. This is yet another example of how interpreters influence the lexicon of attorneys, defendants, and witnesses in the hearing process.

6.3.2. Interpreter Mistakes Bilingual Attorneys Failed to Notice

According to Trabing (2002), interpreters should have a “working knowledge” of their languages that is “a broad knowledge, very good every day grammar and syntax and specific knowledge in many fields” (p.14). Furthermore, Trabing recognizes that idiomatic expressions, slang jokes, and plays on words are not easy to translate, let alone interpret consecutively or simultaneously. Trabing adds the following:

Names of popular TV programs and cartoon characters are also many times, worked into spoken speech. Religious references are also very common. Interpreters need to have some of these things at their finger-tips at all times.
(p.15)

Immigration interpreters have demonstrated a broad legal lexicon in both Spanish and English. As was mentioned in Chapter 3, most of these interpreters are from different Latin American countries as well as Spain, but two are from the United States. In interpreting, cultural differences play a consequential role at both the lexico-semantic and the pragmatic level, yet it would be virtually impossible for any given interpreter to know all the jargon and other linguistic nuances of all Spanish-speaking cultures. Trabing recognizes that cultural differences can greatly influence an interpreter’s rendition. Interpreters may sometimes have to resort to linguistic mechanisms such as defining the term in question in order to render an equivalent meaning in the TL. “An interpreter may have to try [to] work in an explanation of something that is culturally very different” from anything in the target language (p.15).

In the next excerpt, the interpreter seems to have been confronted with an unfamiliar term. This particular interpreter, who is of Hispanic descent, lived in Latin America for 13 years

and then moved to the United States. This text shows the linguistic mechanisms the interpreter uses in an attempt to compensate for her lack of comprehension and her failure to provide a semantic equivalent for the terms introduced in Excerpt 9. Furthermore, the interpreter's lexical choice went unnoticed not only by the immigration judge but even by the bilingual defense attorney. The following text reflects some of the interpreter's unperceived mistakes:

Excerpt 9 is from Case 5.

9.1 Defense attorney: And what type of business was it?

9.2 Interpreter: *Y ¿qué tipo de negocio era?*

9.3 Witness: *Pues era una miscelánea.*

9.4 Interpreter: It was a miscellaneous.

9.5 Witness: *Tenía restaurante...*

9.6 Interpreter: It had a restaurant...

9.7 Witness: *...fuelle de sodas...*

9.8 Interpreter: ...it had a soda...

9.9 Witness: *...y variedades.*

9.10 Interpreter: ...and varieties.

Dueñas González et al. explain that it is nearly impossible for an interpreter to interpret using direct equivalents or cognates without running the risk of conveying a meaningless message. They stress that the interpreter must account for every word in the SL without compromising the syntactic and semantic structure of the TL. However, in her quest to interpret word for word, the interpreter featured in the above text failed to consider cultural implications that are part of the word *miscelánea* but not the word miscellaneous. In some Latin America countries, for instance, a *miscelánea* is a store similar to a bodega in New York. In countries like Costa Rica a *miscelánea* means not only a bodega, but also a convenience store or small grocery store. The person testifying in this excerpt is the defendant's mother, who is explaining to the court that she had a business to support the family, namely the *miscelánea*. However, the interpreter failed to convey the semantic notion of *store* in her interpretation of the word *miscelánea*. The same applies to Line 9.7, in which *fuelle de soda* should translate directly as *soda fountain*. Such

careless interpreting could damage the credibility and trustworthiness of a defendant or witness or simply create confusion. Earlier, the defendant was asked the same question and replied that her mother owned a restaurant business. Had the mother, who was testifying on her daughter's behalf, failed to add that the *miscelánea* had a restaurant, she would have seemed to contradict her daughter's testimony.

One striking aspect of this case is that the defense attorney is bilingual. On several occasions, I observed bilingual defense attorneys objecting because of the interpreter's lack of linguistic accuracy. In this case, however, the bilingual defense attorney did not object to the nonsensical rendition, in this particular context, of the word *miscelánea* as *miscellaneous*. It is possible that the defense attorney was more interested in letting the witness continue with her story so as to corroborate the defendant's version of events. Moreover, the fact that the immigration judge seemed not to notice that the English rendition did not make any sense helped the defense attorney continue with her direct examination. Another possible reason for the immigration judge's indifference to the interpreter's lexical choice might have had to do with the equity the defendant had presented to the judge. This defendant had brought compelling evidence of having been persecuted. The judge probably wanted to focus on the story of the attack that corroborated the equity, rather than on background information about the witness's convenience store.

6.4. INTERPRETER DO'S AND DON'TS AND THEIR CONSEQUENCES

Trabing, in her 2002 book on court interpreting and materials for interpreters, outlines the techniques and the do's and don'ts of professional interpreting. She emphasizes the importance

of avoiding literal equivalents if they obscure the meaning: “Understand the *whole* message that is being given to you for transmission and then say it again in the proper grammar and syntax of the target language and with the exact same *meaning* as the original” (p.29). Despite their attempts to retain the meaning of the testimony, the interpreters featured in the excerpts below not only fail to convey the same meaning but also fail to interpret certain words into English. These interpreters simply repeat the word in Spanish whenever they don’t understand what the defendant means:

Excerpt 10 is from Case 5.

10.1 Defendant: *Recibí consejería sicológica...*

10.2 Interpreter: I received some psychological counseling...

10.3 Defendant: *...por parte de de la sicóloga de del jardín de donde mi hijo estudiaba.*

10.4 Interpreter: ...uh uh by the uh psychologist to uh was in the garden the jardín that my son uh was going to.

10.5 Defense attorney: Okay, did your son receive treatment as well?

10.6 Interpreter: *Y ¿su hijo también recibió tratamiento?*

10.7 Defendant: *Sí.*

10.8 Interpreter: Yes.

Excerpt 11 is from Case 5.

11.1 Defendant: *El señor me quiso ayudar...*

11.2 Interpreter: The man who wanted to help me...

11.3 Defendant: *...recogimos mi hijo en el jardín.*

11.4 Interpreter: ...we picked my son in the jardín.

Excerpt 12 is from Case 6.

12.1 Defendant: *Yo ya me montaba en una chiva con mi equipo...*

12.2 Interpreter: I would go in a chiva...

12.3 Defendant: *...bus...*

12.4 Interpreter: ...in a bus and I went with my group...

The word *jardín* in Spanish, found in Lines 10.3 and 11.4, means *pre-school* or *kindergarten*.

The interpreter did not understand its meaning in this context; therefore, she repeated the Spanish word. The same applies to Line 12.2, in which the interpreter’s unique linguistic technique for translating slang into the TL is to repeat in Spanish what the defendant has said, i.e., the word

chiva. Fortunately, for the defendant, he immediately recognized the interpreter's lack of understanding and revealed that *chiva* meant *bus*.

The next example is a more serious one. The defendant had received death threats from the FARC, in the form of a dead toad left on the windshield of her car as a symbol of her own potential fate at their hands. In her testimony, the witness recounts that incident, in which her daughter, the defendant, was approached by a man who threatened her. The mother explains that the dead toad left on the windshield was a message to her daughter from the FARC: stop being an informant. However, the interpreter is clueless as to how to translate the SL slang term *sapa* into the TL.

Excerpt 13 is taken from Case 5.

13.1 Interpreter: One night...

13.2 Witness: ...*del mismo día*...

13.3 Interpreter: ...of the same day...

13.4 Witness: ...*ella salió a la tienda*...

13.5 Interpreter: ...she went to the store...

13.6 Witness: ...*y un hombre la abordó*...

13.7 Interpreter: ...a man approached her...

13.8 Witness: ...*y le dijo*...

13.9 Interpreter: and told her...

13.10 Witness: ...*que ellos que él era de la FARC*...

13.11 Interpreter: ...and he said and he said he was from the FARC...

13.12 Witness: ...*y que iban a sabotear las elecciones*...

13.13 Interpreter: ...and that they were going to sabotage the elections...

13.14 Witness: ...*y que si ella no quería*...

13.15 Interpreter: ...and that she if didn't want...

13.16 Witness: ...*sufrir las consecuencias* ...

13.17 Interpreter: ...suffer the consequences...

13.18 Witness: ...*que por favor dejara de ser sapa*...

13.19 Interpreter: ...that please she needed to stop being sapa...

13.20 Witness: ...*que le iba a pasar lo que le pasó al sapo*...

13.21 Interpreter: ...that she was gonna whatever what happened to the frog was gonna happen to her.

In Line 13.19 the interpreter should have addressed the immigration court to request permission to ask the witness to explain what she meant by the word *sapa*. Trabing (2002) explains what

interpreters should do to prevent finding themselves in such situations: quickly learn different dialects, jargon, idioms, and slang in the two languages you work in. Trabing considers it unacceptable for interpreters to use Spanglish, or Franglish, or some other patois in the judiciary system. In this instance, the interpreter needed to make a conscious effort to correct her mistake and her failure to do so indicates her lack of commitment to accurate interpreting.

Excerpt 14 is from Case 5.

14.1 Witness: *Ahí me abordaron dos hombres que iban en una moto.*

14.2 Interpreter: Two men approached me that were going on a motorcycle.

14.3 Witness: *Ellos me dijeron: Esta es la hijueputa mamá de la sapa que se nos escapó.*

14.4 Interpreter: They told me: This is the son of a bitch mother of the frog of the sapa that uh that escaped us.

In Lines 13.21 and 14.4, the interpreter rendered *sapa* almost literally, as *frog*, although *sapa* is actually *toad*. Nevertheless, either word choice is still nonsensical because it does not capture the semantic connotation of the word *sapa* in Spanish. An accurate slang equivalent of *sapa* in English would have been *rat*, which would have enabled the interpreter to maintain the witness's same linguistic register. These mistakes went unnoticed by all parties, including the bilingual attorneys. Fortunately, the defendant's credibility was not affected in this instance, thanks to the witness's explanation and the evidence presented in court as to the death threat. The interpreter's poor interpreting skills did not affect the comprehensibility of the witness's testimony nor did it damage her credibility, at least in this case.

6.4.1. Confusion Sparked by the Interpreter

A court interpreter should protect the record by paying disciplined and rigorous attention to transferring the message and style of the SL to the TL. In the examples presented so far, we have seen how the accuracy of the interpreting can vary according to the interpreter's linguistic control of the source and the target languages. Fortunately, the interpreter's mistakes, whether

made deliberately or on an unconscious level, did not lead to serious confusion. However, there were instances in which the interpreter's lack of attention, omission of a word, change of verb, or change of verb tense did create significant confusion:

Excerpt 15 is from Case 5.

15.1 Defendant: *Yo nací en X, Colombia.*

15.2 Interpreter: I was born in X, Colombia.

15.3 Defense attorney: And how old are you today?

15.4 Interpreter: *Y ¿cuántos años tiene hoy?*

15.5 Defendant: *Treinta y ocho.*

15.6 Interpreter: Thirty-eight.

15.7 Defense attorney: And mm did you grow up in X, Colombia?

15.8 Interpreter: *Y usted, este ¿usted creció en X, Colombia?*

15.9 Defendant: *Crecí en V. Valle.*

15.10 Interpreter: I was born in V. Valle.

15.11 Defense attorney: Okay, and what type of a mm job did your parents do?

15.12 Interpreter: *¿Qué tipo de trabajo...*

15.13 Immigration Judge: I am sorry, I am sorry. I'm lost already, I thought she just said she was born in X and then she said she wasn't born in X? Where were you born?

15.14 Defendant: I was born in X.

15.15 Interpreter: I was born in X.

15.16 Immigration judge: Okay, the second?

15.17 Defense attorney: And where did she grow up?

15.18 Immigration judge: Where did you grow up?

15.19 Interpreter: *¿Adónde creció?*

15.20 Defendant: *En la V. Valle.*

15.21 Immigration judge: All right, my mistake, okay.

Excerpt 15 is a typical example of confusion sparked by the interpreter due to a change of verb.

The major confusion began with Line 15.10, in which the interpreter rendered *crecí* as *was born* instead of *grew up*, making it seem as though the defendant had said she was born in V. Valle, when she had already said in line 15.1 that she was born in X, Colombia. Although the defense attorney speaks Spanish, this major mistake went unnoticed by both the interpreter and the defense attorney. Line 15.13 shows that the immigration judge, who only understands the English version, is already confused by the interpreter's rendition of the testimony. Guidelines

for professional interpreters require them to inform the court immediately if they have made an inadvertent error that could affect the testimony. Trabing (2002) explains as follows:

Admit to all mistakes you make, immediately, or as soon as you realize that you made a mistake a few sentences ago. This reflects professional honesty and may make an enormous difference in the outcome of the case, not to mention the life and livelihood of the defendant (p.28).

In response to this major misunderstanding, the immigration judge takes the floor to ask the defense attorney to re-state the questions so as to clarify the previous answers. Although the interpreter was the one whose mistake initiated the series of confusions, it is the immigration judge who takes the blame for not having understood in the first place. The interpreter did not clear up the mistake; nor did she accept responsibility for the misunderstanding.

6.4.2. Damaging Interpreting Mistakes

In Line 16.6, another interpreter begins a series of mistakes that damage the defendant's credibility and diminish the gravity of his case:

Excerpt 16 is from Case 6.

16.1 Defendant: *Sí, yo tenía mucho miedo eh... también lo habíamos pensado...*

16.2 Interpreter: Yes, I was very scared; ah, we had thought about it too...

16.3 Defendant: *No podíamos abandonar el pueblo de un día a otro con nuestras pertenencias.*

16.4 Interpreter: We couldn't abandon the village from day to the next with out belongings.

16.5 Defendant: *Lo íbamos a abandonar de una forma diplomática...*

16.6 Interpreter: We were gonna be diplomats about about it...

16.7 Defendant: *...pero a a raíz de que nos llegó una amenaza muy fuerte nos obligaron a salir... sin na'a.*

16.8 Interpreter: ...but we received such a threat such a strong threat we we were forced to leave with nothing.

16.9 Trial attorney: Although you feared for your family's lives, you didn't want to leave the village because you wanted to be diplomatic, Sir?

16.10 Interpreter: *Aunque usted tenía miedo por la vida de su familia, ¿usted no quería dejar la ciudad por cosas diplomáticas?*

16.11 Defendant: *Tenía que salir de una manera, de que no no hubiera reper... repercusión sobre mí, sobre mi familia.*

In Lines 16.1–16.4 the defendant attempts to convey his fear of the guerrillas and his fear of being noticed by them if he attempted to leave his village. He tries to explain that he and his family saw the need to leave but they had to do so unnoticed. The expression *de una manera diplomática* is a figure of speech meant to convey that he did not want to leave the village in an overt manner. The interpreter, however, attempts to provide a literal translation, confusing and changing the actual meaning of the SL statement. When the trial attorney cross-examines the defendant, he seems to be wondering why the defendant is now asking for political asylum in the United States if he didn't leave his village when his life and the lives of his family were in such danger. Line 16.9 clearly implies doubt on the part of the trial attorney as to the urgency of the defendant's need to leave his village and the existence of the death threats in light of the interpreter's translation in line 16.6: *We were gonna be diplomats about about it....* The defendant, attempting to regain his credibility, asserts in line 16.11 that he needed to leave in such a way as to avoid repercussions for his family. However, the interpreter had already weakened the defendant's credibility with her literal translation of *forma diplomática*, enabling the trial attorney to cast doubt on the defendant's assertion that he and his family needed to leave the village immediately, yet cautiously, because their lives had been threatened.

Again, in some of these hearings the judge, the defense attorney, and/or the trial attorneys happen to be bilingual or have some knowledge of the Spanish language. In the cases analyzed for this paper, the defense attorneys did speak Spanish. In the following texts, the interpreter's failure to interpret correctly not only makes the testimony confusing but also changes the entire meaning of the utterance. This time these mistakes did not go unnoticed by the defense attorney, who objected several times to the interpreter's poor linguistic choices.

Excerpt 17 is from Case 7.

17.1 Immigration judge: Well, did you ask her to write a letter explaining the... confusion?

17.2 Interpreter: *¿Le pidió usted que escribiera una carta explicando la confusión?*
 17.3 Defendant: *No, ella ella se retractó; ella me dijo que que eso era lo que yo había dicho...*
 17.4 Interpreter: She took a picture; she told me that's what I had said...
 17.5 Defense attorney: ¡*Retractó!*
 17.6 Interpreter: ¡*Retractó!* Oh, she she took it back, she said that wha...
 17.7 Defendant: *Se echó pa'tras.*
 17.8 Interpreter: She took it back, she told me that's what I had said...
 17.9 Defendant: *Y que y que ella había hecho todo bien, que yo era él que había... él que había hecho las cosas mal...*
 17.10 Interpreter: She said that she had done everything correctly, that I was the one that I had done things... badly.

Excerpt 18 is from Case 6.

18.1 Defendant: *Yo ya me montaba en una chiva con mi equipo...*
 18.2 Interpreter: I would go in a *chiva*...
 18.3 Defendant: *Bus.*
 18.4 Interpreter: in a bus and I went with my group...
 18.5 Immigration judge: Where is the letter from your group?
 18.6 Interpreter: *Y, ¿dónde está la carta de su grupo?*
 18.7 Defense attorney: The translation wasn't good.
 18.8 Immigration judge: Miss H. I... I'm sorry but I just couldn't hear what you were saying. If you want to make an objection, please eh...
 18.9 Defense attorney: Objection, your honor! It's not good. He didn't say group, he said equipment!
 18.10 Interpreter: Me eh, your honor...
 18.11 Immigration judge: Do you want to clarify, Mrs. S.?
 18.12 Interpreter: *Yes, repítame de nuevo, cuando usted trabajaba, ¿iba con quién?*
 18.13 Defendant: *Cuando yo estaba trabajando con el hospital...*
 18.14 Interpreter: [Luego]
 18.15 Defendant: *Después que dejé de trabajar con el hospital iba con mi esposa no más.*
 18.16 Interpreter: When I stopped working for the hospital I went only with my wife.

In Line 17.5 the interpreter heard a different verb from the one the defendant used. The defendant said *retractó*, or *retracted*, whereas the interpreter heard *retrató* in Spanish, which is the past tense of *retratar*, which means *to take a picture*. This particular example could have resulted from phonological confusion of these two verbs, since the only difference between them is the phoneme “c,” which is not salient in the normal pronunciation of the word *retractó*. Although these two verbs are close in pronunciation, their meanings are completely different. One phoneme changed the meaning of the word completely, resulting in an interpreting mistake

that totally changed the meaning of that part of the testimony. The fact that the defense attorney is fully bilingual in Spanish and English was an important factor in this case, since she was able to catch the mistake and correct the interpreter for the record in Line 17.5. Furthermore, the defendant noticed the mistake as well, and helped the interpreter understand what he meant by *retractó* by using a repair mechanism for clarification and providing a rough equivalent of *retractar* in Spanish in Line 17.7, *echarse para atrás*. As noted in line 17.6, the interpreter did correct her mistake.

6.4.3. The Effect of Polysemy in Interpreting

Hale (2004) analyzed the ungrammaticalities present in her data and reviewed Chomsky's distinction between errors and mistakes (1965). Hale prefers to address ungrammaticality in interpreters' utterances as *errors* rather than *mistakes*. She does so because she finds it difficult to determine whether these ungrammaticalities are due to competence failure or performance failure:

The difference between “mistake” and “error” has been linked to Chomsky's (1965) distinction between competence and performance; error relating to a lack of competence, and mistake relating to a lapse of performance (Corder, 1967, 1971; James, 1998). It is difficult to say whether the ungrammaticalities found in the interpreters' utterances were competence failures or simply performance failures caused by pressure. For this reason I opted to use the term “error” to apply to every instance. (Hale, 2004, p.130)

The interpreting problems analyzed in this study seem to be of both types. On one hand are errors stemming from cultural variability and cultural differences between the background of the interpreter and that of the defendant or witness. These errors are typically of a lexical-semantic nature, and play a consequential role, both semantically and pragmatically. They often represent problems with competence, in that the interpreter lacks an underlying familiarity with the

defendant's dialect. Such errors, unfortunately, are inevitable, because no one person could possibly be familiar with all the different slang terms, for example, used throughout Latin America and Spain. On the other hand are mistakes, or performance failures, often stemming from time constraints on the immigration judge and the interpreters. The tight schedule the judges must adhere to creates pressure for the interpreters, who are reluctant to be the cause of prolonging a hearing in order to obtain clarification, even when clarification is needed. The issue of time constraints will be examined further in a subsequent section.

There are some immigration judges who like consecutive interpreting, whereas others prefer simultaneous interpreting. Arjona-Tseng (1985) defines simultaneous and consecutive interpreting as follows:

(1) Simultaneous interpretation... usually takes the form of a whispered interpretation. This type of interpretation is used when an interpreter sits near the person receiving the interpretation and provides the translation *sotto voce*; (2) consecutive interpretation... in the U.S. courts consists of a method whereby first a question is asked and then interpreted. The reply follows and is then interpreted. Interpretation usually follows the completion of a sentence or statement. This type of interpretation is most frequently used when a non-English speaking person is on the witness stand. (p.187)

The immigration interpreters I observed seemed to have more time to think when they were engaged in consecutive interpreting. Consecutive interpreting allows them to organize their thoughts so they can produce a more faithful rendition of the testimony. Also, engaging in consecutive interpreting gives interpreters some time to ask the immigration judge for permission to address the defendant or witness for clarification purposes when a term is not clear or is unknown to the interpreter. Of all the immigration judges I observed, only one preferred simultaneous interpreting. Immigration interpreters expressed concern about working with this judge because of the difficulty of simultaneous interpreting and the precision it demands.

The cases analyzed in this study have involved immigration judges who prefer consecutive interpreting. This is an important detail to note, since interpreting consecutively makes interpreters feel not only less pressured to deliver the message but also somewhat more confident that there is room to interrupt for clarification purposes. As mentioned above, time constraints are crucial. Even though the consecutive mode of interpreting buys interpreters more time to think and process the information than does the simultaneous mode, interpreters know that immigration judges are on a tight schedule. They know that most of the judges want to finish cases within the scheduled time. Interpreters may not want to delay the hearing by interrupting every time they are not sure about a term. I would also argue that interpreters do not want to lose face in front of the judge. When confronted with unfamiliar lexicon, interpreters feel pressured to render a translation they believe comes closest to semantically mirroring what the defendant or witness has said. However, as can be seen in the excerpts above, the interpreting has not always been accurate. I address interpreter views on losing face in depth in Chapter 6.

In the passage above, in Line 15.1, the interpreter begins a series of mistakes by using a literal translation and an incorrect choice of words because of the defendant's use of a polysemic word, *equipo*, in Spanish. Berk-Seligson (1990) points out that such cases of polysemy—a term used in semantics to refer to a word that has more than one sense or meaning—will sometimes cause the wording of a sentence to seem ambiguous to the interpreter. The mistake that is relevant here is the interpreter's failure to understand the correct sense of the word *equipo* through the context. Choosing a sense of the word *equipo* that did not fit the situation, she introduced the word *group*, which took the immigration judge's interrogation in an entirely new and unnecessary direction in Line 15.5. The defense attorney, in Line 15.7, recognized the error and interrupted the immigration judge's question in an attempt to correct it. The word *equipo* in

Spanish is polysemous because it can mean *equipment* or *group of people*. However, in this particular case, the context should have made *equipment* the clear choice. The defense attorney seems irritated, making the judge irritated as well, since the defense attorney did not object properly to the error. Well-trained immigration interpreters are supposed to request that the immigration judge play the tape back to give the interpreter a second chance to analyze the word in question and then choose the best meaning for it. In the case of Excerpt 15.11 above, however, the immigration judge tells the interpreter to ask the defendant for clarification. The choice of words thus remains in the hands of the interpreter. It is the interpreter's word choice that remains on the record, and that is heard and repeated in subsequent questions posed by other attorneys and the immigration judge. Whether or not interpreters are consciously aware of their linguistic coerciveness, they engage in an active reconstruction of events according to their own particular perspective and circumscribed by their knowledge of sociolinguistics or lack thereof.

6.4.4. Lengthened Testimony: From Fragmented to Narrative

An important mechanism for lengthening the testimony of the defendant or witness is highlighting. Highlighting has two functions: a) clarifying, as when the speaker stops the previous turn-taker to clarify facts of the testimony, and b) underlining, as when the speaker repeats a part of the previous speaker's turn for emphasis. The following texts exemplify how the interpreter makes the SL testimony longer by requesting clarification and repetitions.

Excerpt 19 is from Case 6.

19.1 Defendant: *Llegaron unos hombres fuertemente armados...*

19.2 Interpreter: Some people arrived; they were armed, heavily armed...

Excerpt 20 is from Case 7.

20.1 Defendant: *Y y nadie hacía nada...*

20.2 Interpreter: And nobody helped, nobody did anything...

Excerpt 21 is from Case 6.

21.1 Immigration judge: Okay, and the medical report is prepared by your brother, who is a doctor, correct?

21.2 Interpreter: *Y el reporte médico está preparado por su hermano que es un médico... ¿correcto?*

21.3 Defendant: *Es, sí, porque mi hermano es la persona de confianza allá en el pueblo donde nosotros vivimos.*

21.4 Interpreter: Because my brother is the person that we trust...

21.5 Defendant: *Hay mucha infiltración de autodefensa que uno podía...*

21.6 Interpreter: In a little village that we live there was a lot of infiltration.

Excerpt 22 is from Case 6.

22.1 Defendant: ...de que dejara de atender las veredas...

22.2 Interpreter: ...that I should stop going to the neighborhoods to do the voluntary work...

Excerpt 23 is from Case 6.

23.1 Defendant: ...*que está dedicado a atacar la guerrilla...*

23.2 Interpreter: ...that is dedicated to attack the guerrilla, the Colombian guerrillas...

Excerpt 24 is from Case 6.

24.1 Defendant: *Sí.*

24.2 Interpreter: That's correct, yes.

Excerpt 25 is from Case 7.

25.1 Immigration judge: And what answer did you come up with?

25.2 Interpreter: *Y ¿con qué respuesta concluyó usted? ¿Qué respuesta se dio para esa pregunta?*

The above sets of adjacency pairs illustrate how the interpreter, by clarifying and repeating in an attempt to appear more accurate, adds more information. In Lines 19.2 and 20.2, the interpreter clarifies by repeating the phrase. In Line 19.2, she makes it clear that the men were heavily armed. In Line 20.2, the interpreter fails to interpret the defendant's answer correctly in the first place. The straight interpretation should have been: *nobody did anything*, as the interpreter did say at the end of her turn. However, for the interpreter to say *nobody helped*, which was not said at all, is to highlight and change the actual testimony of the defendant and therefore to project a different image of the defendant's demeanor to other participants in the judicial process. The same applies in Line 24.2, in which the interpreter not only interprets the defendant's answer,

which was yes, but also clarifies by adding *that's correct*, which was not said at all and implies that the defendant was certain about the incident. Berk-Seligson (1990) was the first to identify this phenomenon, which I refer to as *highlighting*, in which the interpreter adds material that is understood but not explicitly stated in the source language to the target language rendition.

Lines 22.2 and 23.2 also provide examples of highlighting, as the interpreter, in addition to repeating, attempts to clarify by adding information the defendant didn't actually say at that particular time. The defendant had stated in his previous testimony that he provided dental care to poor people as volunteer work. The interpreter, in line 22.2, added this piece of information to his testimony, simply repeating what she remembered the defendant had previously said about working in nearby neighborhoods as a volunteer dental assistant. The interpreter's intrusiveness does clarify the situation somewhat, but since she doesn't directly interpret *atender las veredas*, it is still not completely clear. She should have stopped the hearing and asked the judge for permission to address the defendant to ask him to explain what he meant by *veredas*, since it is a very difficult term to translate into American English. Even words such as *ghetto* and *slum*, while close, are not equivalents of *vereda*. In the United States this kind of housing, consisting of rude shacks made of corrugated cardboard and tin, is very rare and doesn't have a particular name. The closest might be something like *homeless settlement* or *encampment of homeless people* or *settlement of homeless people living in cardboard shacks*. However, these are more like explanations or definitions than equivalents, and furthermore, *veredas* are more like permanent settlements than their U.S. counterparts, since such settlements are usually soon dismantled by municipal authorities when they do appear in this country. In any case, the interpreter is blatantly controlling and changing the defendant's testimony. Likewise, in Line 23.2, she attempts to clarify, adding that the guerrillas in question were Colombian guerrillas.

Once more, she added a phrase, the *Colombian guerrillas*, which the defendant did not actually say in this part of his testimony.

One could argue that these instances of highlighting may not have had any negative repercussions for the defendant. However, the interpreter is violating the principle of being unobtrusive or invisible. In fact, these clarification procedures violate the main principle of legal interpreting: “Interpreters must be able to translate with exactitude...while accurately reflecting a speaker’s nuances and level of formality....The interpretation cannot be summary or convey only the gist of the original source language” (Federal Judicial Center, 1989, p.7). These alterations of the defendant’s testimony show how the interpreter lengthens the source language and manipulates the testimony.

An instance of even more intrusive participation by the interpreter is shown in Excerpt 21. The interpreter has neglected or forgotten or missed her chance to interpret information about the village where the defendant and his family lived that was part of his testimony in Line 21.3, so on her next turn, in Line 21.6, she simply inserts this piece of information as a repair. Although her interpretation makes perfect sense, she is completely skewing what the defendant said in Line 21.5. Furthermore, she is playing a losing game of catch-up, because not only does she add to Line 21.6 information that was part of the testimony in line 21.3, not 21.5, she also neglects to include in line 21.6 testimony that actually was part of line 21.5: *de autodefensa que uno podia....* Finally, Line 25.2 shows interpreter intrusion as well. The interpreter paraphrases the immigration judge’s question in order to clarify it for the defendant. This example does not have an impact on the length of the defendant’s testimony; nevertheless, she is helping the defendant understand the judge’s question via highlighting in the form of paraphrasing.

The data also show another mechanism by which interpreters lengthen the testimony of witnesses and defendants. By using definitions, interpreters are able to convey the meaning of a word or of slang that is unfamiliar to them.

Excerpt 26 is from Case 7.

26.1 Defense attorney: How did you receive it?

26.2 Interpreter: *¿Cómo lo recibió?*

26.3 Defendant: *Lo recibió la empleada que nosotros teníamos.*

26.4 Interpreter: The person that we had working for us received it.

Excerpt 27 is from Case 6.

27.1 Defendant: *Estas brigadas de salud consistían en asistir a las veredas... (3.0) a las veredas para atender a la gente de bajo recursos.*

27.2 Interpreter: It, it, it consisted young... helping people that ah they don't have enough money, low-income people.

Excerpt 28 is from Case 6.

28.1 Defendant: *...con brazaletes que que tenían una una insignia que decía FARC...*

28.2 Interpreter: ...with bracelets that had FARC written on them...

28.3 Defendant: *...a mí con con la culata del fusil me empujaron... me llevaron...*

28.4 Interpreter: ...they pushed me with part of the eh eh rifle...

Examples of the use of definitions as a repair technique are very common. Excerpt 26 is a clear example of how the interpreter uses definitions whenever she can't arrive at an adequate translation. Thus *empleada*, which would be employee in a literal translation, but in this context would mean *maid*, is replaced by its definition, as stated in Line 26.4: the person that we had working for us. Another definition appears in Line 27.2, in which the interpreter defined *gente de bajos recursos* as *people that ah they don't have enough money*. The last example, found in Line 28.4, shows how the interpreter fails to interpret *culata*, which in this case means *butt* (of a rifle). She begins to provide a definition in order to repair her lack of lexical precision.

This interpreter's technique could have negative consequences for the defendant, since the testimony on the record could be viewed as powerless testimony. Providing a definition when what the defendant uttered was a single word not only lengthens his testimony but also

diminishes his assertiveness, affecting his register and linguistic image. This tendency to resort to definitions rather than equivalents can be as dangerous for the defendant as highlighting, since it may imply that the defendant is beating around the bush or being indirect or imprecise, and possibly has something to hide as well.

Berk-Seligson's (2002) data also show that repetitive speech is associated with lack of persuasiveness. The interpreter's repeating, clarifying, and defining may have a detrimental influence on the judge's perception of the defendant. When the defendant sounds hesitant due to the repair mechanisms adopted by interpreters, judges and trial attorneys can easily feel that the defendant is not sufficiently persuasive.

In addition to the verbal tactics documented above, which interpreters use to control the flow and length of the testimony of both defendants and witnesses, there are verbal and non-verbal techniques interpreters use to get the defendant or witness to repeat an answer for them. Berk-Seligson (2002) shows in her data that interpreters use a variety of queries to get the speaker to repeat an utterance. The most common queries found in her data are *¿Cómo?*, which means *What?*; *No lo oí*, which means *I didn't hear you*; and *No oí, no oí*, which means *I didn't hear*. My data also show interpreters using these techniques to address the witness and ask for a repetition, often without requesting permission from the immigration judge. Lines 29.2 and 30.3 exemplify these verbal tactics:

Excerpt 29 is from Case 5.

29.1 Defendant: *...y soy tecnóloga de comercio exterior.*

29.2 Interpreter: *¿Perdón?*

29.3 Defendant: *...y soy tecnóloga de comercio exterior.*

29.4 Interpreter: *...and a technologist in ...uh...*

Excerpt 30 is from Case 5.

30.1 Interpreter: *...and a pamphlet...*

30.2 Defendant: *...que decía milicias urbanas de las FARC.*

30.3 Interpreter: *¿Perdón?*

- 30.4 Defendant: *Decía: milicias...*
 30.5 Interpreter: That would say militants...
 30.6 Defendant: *urbanas...*
 30.7 Interpreter: Urban militants of the FARC...
 30.8 Defendant: *uhumm ejército del pueblo...*
 30.9 Interpreter: ...uh (0.3) army for the people...

Besides the typical query *perdón*, meaning *pardon* or *pardon me*, these data show other verbal techniques used to get the defendant's attention. Consider the following:

Excerpt 31 is from Case 8.

- 31.1 Defendant: I mean no, *yo dejé un... un supuesto abogado que no era abogado, chequeándome mis papeles porque vine a traer trabajo acá, me regresó la a...*
 31.2 Interpreter: [Espere, no entiendo, puede empezar otra vez.]
 31.3 Defendant: *OK, yo, yo regresé a Puerto Rico pero a la la cita de migración...*
 31.4 Interpreter: I went back to Puerto Rico to the appointment at immigration...
 31.5 Immigration Judge: When you say the appointment the appointment because of the marriage to your wife...
 31.6 Interpreter: *La cita por el matrimonio de su esposa, la cita que tenía por el...*
 31.7 Defendant: [Sí.]
 31.8 Interpreter: Yes.

In Line 31.2, the interpreter needs to get the defendant's attention so that he will repeat what he just said. The defendant's testimony is confusing because he said that he had left his documents with a supposed lawyer who turned out not to be one. Because the interpreter is confused, he uses the verbal technique of asking the defendant directly. I would argue that this type of questioning is the most intrusive of all the techniques used in the above examples. The code of ethics for interpreters requires that the interpreter first address the judge to state either that there is confusion in the testimony or that the interpreter did not understand the defendant. It is after receiving the immigration judge's permission that an interpreter may address the defendant to request clarification. This interpreter, however, takes the floor and prompts the defendant to repeat his testimony. Even though the testimony may have been confusing, and the interpreter

may have had every reason to request that the defendant repeat himself, the interpreter still needed to ask the immigration judge for permission to request clarification. The following texts show examples of interpreters forgetting what the defendant has said. These interpreters then ask the defendant directly to repeat the rest of the testimony to help them finish the target language rendition:

Excerpt 32 is from Case 31.

32.1 Interpreter: *¿Cuántos miembros de su partido habían estado asesinados?*

32.2 Defendant: *Pues, uh el uh digamos el número no es... probable fueron muchos, pues entre ellos que yo estaba en la función, en función de ese eh mm en en esa actualidad... en ese tiempo habían sido los hermanos mmm Freddy y Pancho Ruiz...*

32.3 Interpreter : There had been many, but during the time I was in uh mm in the party, functioning in the party there were two people who were assassinated they were brothers and the names were uh... *¿los nombres cuáles eran?*

32.4 Defendant: *Freddy y Pancho Ruiz.*

32.5 Interpreter: *Freddy and Pancho Ruiz.*

Excerpt 33 is from Case 31.

33.1 Defense attorney: You were re-elected as an official?

33.2 Interpreter: *¿Usted fue ele elegido como oficial (0.2) en el partido?*

33.3 Defendant: *Estaba dentro del partido y estaba en el quinto renglón para el consejo.*

33.4 Interpreter: *¿En el quinto qué?*

33.5 Defendant: *Quinto renglón, o sea en el quinto nivel.*

33.6 Interpreter: I was a member of the party and I was in the fifth uh uh level in the party.

33.7 Defense attorney: Okay.

33.8 IJ: What does that mean?

33.9 Interpreter: *¿Qué quiere decir eso?*

In Line 32.3 the interpreter could not recall the names of the brothers. Therefore, he stops his rendition in English and asks in Spanish what their names were. In line 32.1 he asks what the defendant meant by *quinto renglón*. It is clear that the defendant is using specific political vocabulary that is part of the dialect used in the defendant's native country. Once more the interpreter has taken the floor without asking permission. Interpreters draw attention to themselves by taking the floor in this manner. In such instances, defendants are likely to view the

interpreter as another member of the fact-finding committee, since the interpreter not only asks them to repeat but also to define terms.

In a situations like that of Line 32.1, in which the interpreter requests clarification, asking the defendant, *¿En el quinto qué?*, meaning *In the fifth what?*, the interpreter is also asking the defendant to define what he means by *renglón*. This questioning directly influences the defendant's testimony, since the pragmatic force of the defense attorney's original utterance was focused on having the defendant confirm that he had been re-elected as an official. As was previously mentioned, these hearings are recorded and transcribed in English. If the defense decides to appeal the immigration judge's ruling, a board of appeals reads the transcript and makes a decision. This decision will be based solely on the interpreter's English version; any questions asked in Spanish are not transcribed. The English record will show testimony that drifts away from the defense attorney's point (highlighting the importance of the defendant's re-election). At the same time, the interpreter's intrusive queries weaken the defendant's testimony. The next example shows the interpreter being even more intrusive because he prompts the defendant to hold a conversation with him as if he were another member of the fact-finding committee.

Excerpt 34 is from Case 31.

34.1 Defendant: *Estuve eh en... cuando llegué al party en mi carro...*

34.2 Interpreter: *¿Qué es party?*

34.3 Defendant: *...o cuando llegué al...*

34.4 Interpreter: *¿A la fiesta?*

34.5 Defendant: *Uh, cuando llegamos uh digamos al al al lugar...*

34.6 Interpreter: When I arrived to the place...

Line 34.2 shows how intrusive the interpreter's performance is. The defendant introduces a word in English, *party*, that is polysemous. The word *party* could be interpreted into Spanish as *partido*—i.e., a group of persons organized for the purpose of directing the policies of a

government—or as *fiesta*—i.e., a social gathering. The interpreter is aware of the multiple meanings of the word *party* and wants to clarify. However, the interpreter's question in Line 34.4 prompts the defendant to give a different answer altogether. The defendant says *lugar*, meaning *place*, as a replacement for *party*. These examples show how an interpreter's intrusiveness and coercive use of verbal mechanisms to induce the defendant to repeat parts of the testimony can influence subsequent testimony.

The data also show interpreters using a non-verbal technique, silence, as a repair mechanism to prompt defendants to repeat their testimony. McLaughlin and Cody (1982) found in studies of dyads that in those having three or more lapses of longer than three seconds in the course of a 30-minute conversation, members rated their partners as significantly less competent than did members of those dyads whose conversations had fewer lapses (as cited in McLaughlin, 1984).

[We] selected the three-second silence criterion as an awkwardness limen for a number of reasons: (1) Initiative time latencies (the length of time it takes for the reinstitution of talk by person A following a failure by person B to take a turn) are typically just over three seconds (Matarazzo & Weins, 1967); (2) Social skills researchers suggest that latencies as brief as three or four seconds significantly affect competency ratings (Weimann, 1977; Biglan, Glaser, & Dow, 1980); and (3) Ordinarily, mean switching pause duration appears to be less than one second. (Jaffe & Feldstein, 1970, as cited in McLaughlin, 1984, p.115)

Lines 35.2 and 36.2 demonstrate how the interpreter, in an attempt to gain time to comprehend the defendant's statement and determine how to interpret it, prompts the defendant to repeat what she has just said. Line 35.2 shows a silence of seven seconds, which implies that the interpreter had some difficulty processing the information the defendant provided. This initial silence was not sufficient to prompt the defendant to assist the interpreter, who therefore resorted to the common verbal tactic of excusing herself by saying *I am sorry*. In line 36.2, the interpreter

prefaced her interpretation with a silence of three seconds. The defendant repeated promptly but slowly the referent the interpreter had failed to understand.

Excerpt 35 is from Case 5.

35.1 Defendant: ... *porque la, la finalidad de específica de las fuerzas armadas revolucionarias de Colombia...*

35.2 Interpreter: (0.7) ...because the end uh of the ends of the... I am sorry the uh...

35.3 Defendant: The FARC.

35.4 Interpreter: ...*of the FARC of the uh fuerzas armadas de Colombia it it was...*

Excerpt 36 is from Case 5.

36.1 Defendant: *Y ellos hicieron la promesa de hacer un cese al fuego y un cese de hostilidades.*

36.2 Interpreter: And uh (0.3)...

36.3 Defendant: *Las FARC.*

36.4 Interpreter: ...and they agreed they agreed, FARC agreed to do a cease fire and cease hostility.

Excerpt 37 is from Case 31.

37.1 Defendant: *Sí, es que ellos no les favorecía el que nosotros le ayudáramos a los pobres.*

37.2 Interpreter: (0.4)

37.3 Defendant: *Ese es el motivo...*

37.4 Interpreter: (0.4) We never found out why they were (0.2) doing this to us.

37.5 Defendant: *Mas tomamos la decisión de solamente reunirnos en las horas de la noche la puerta cerrada...*

37.6 Interpreter: That's why we uh mmm decide to meet at evening time and behind closed doors...

37.7 Defendant: ...*para preservar nuestras vidas.*

37.8 Interpreter: ...to preserve our lives.

The silence technique is just one of many linguistic tactics interpreters use. It is a tactic people often use in normal, everyday conversation. I believe interpreters use extended silences on a conscious level to get the defendant to repeat utterances that cause them difficulty. In conversational analysis, extended silences are considered to be awkward, since they break up the flow of the turn-taking system. The silence conveys the message that there was some piece of information that was lost or was not processed. Therefore, interpreters put the onus on the defendant to notice the silence, to conclude that there is a problem and that the discourse of the

interpreter-defendant dyad needs to be repaired, and to actually repair the conversation, or interpretation, by repeating the utterance that preceded the interpreter's silence.

The question one must ask is how the immigration judge views the defendant who is being prompted by the interpreter's silences. The researchers cited above agree that latencies as brief as three or four seconds significantly affect ratings of social skills and competency. Does the defendant appear hesitant? Does the interpreter have to pause because of the defendant's poor linguistic delivery? Immigration judges who are monolingual are very likely to get the wrong impression in such cases. When interpreters don't request permission from the judge to clarify what the defendant has said, as is frequently the case, the probability that the judge will view the defendant's repair as evidence of powerless testimony is high.

6.5. POWERLESS LINGUISTIC PARTICLES: DISCOURSE MARKERS, HEDGES, AND HESITATIONS

Hale (2004) analyzed the discourse markers she found in her data. She states that scholars have provided a number of definitions of the term discourse markers. She states that discourse markers "bracket units of talk and are syntactically independent from the sentence, so that they can be detached from the sentence without altering its propositional content" (p.61). John Gumperz uses the term *contextualization* cues for those units of talk whose function is to serve as *metacommunicative* elements (Johnstone, 2002). Speakers choose how to word their utterances, which gives cues about how these words should be interpreted by the hearer. Hale cites other scholars' definitions as follows:

A number of studies have been conducted to analyze the use of these discourse features in conversation that are often overlooked, as Green points out, "... because they do not refer to observable properties or events, but in their own way,

they may speak volumes about the person who uses them...” (Green, 1990:250). They cover a range of syntactic word classes and have been labeled differently by a number of linguists, including particles (Schourup, 1985), fillers, interjections (Svartvik, 1980), hedges (Lakoff, 1975), pragmatic markers (Fraser, 1996), or pragmatic expressions (Erman, 1987). (Hale, 2004, p.61)

Hale states that discourse markers are words “...such as ‘well,’ ‘now,’ and ‘see’ that are common in everyday oral communication, yet very few speakers are ever aware of their presence in their own speech” (1999, p.57). She examines the different uses of discourse markers found in lawyers’ questions during examination-in-chief and cross-examination. She finds that these discourse markers are used for argumentation and confrontation, for initiating disagreement or challenge during examinations, and for maintaining control over the flow of information. However, her data show interpreters omitting and mistranslating these markers. She concludes that interpreters tend to omit almost systematically the markers used in the SL testimony, probably because they do not consider them to be consequential. However, these apparently unimportant discourse particles can affect the illocutionary act if they are not interpreted accurately, changing the illocutionary force, or strength, of an utterance. Likewise, Berk-Seligson (2002) finds in her analysis of witness testimony in Spanish and its English version that interpreters do alter speech styles in their English rendition of witness testimony. The hesitation forms, hedges, pause fillers, so-called meaningless particles, and elements of polite discourse that interpreters add have the effect of lengthening the testimony and making it less powerful.

According to Lakoff (1973), linguistic strategies of communication common to women include the use of tag questions, rising inflection typical of a yes-no question with declarative sentences, hedges (e.g., a bit, seemed, perhaps), boosters (e.g., you think, you know), and fillers (e.g., sort of, of course). Hedges, boosters, and fillers are devices that “attenuate or reduce the strength of the utterance” (Holmes, 1995, p.74). Lakoff maintains that these linguistic features

are interpreted as powerless speech. The discourse markers Hale (2004) found in Spanish are *bueno, pues, pero, ahora, entonces, digamos*, and *no señor*. The ones she found in English are *well, actually, so, then, and but*. She concludes that interpreters frequently omit discourse markers in questions. On the other hand, she notes that interpreters often add discourse markers in answers when there were none in the original.

My analysis of the data corroborates the findings of both Hale and Berk-Seligson: immigration court interpreters do omit in the target language what they perhaps consider to be meaningless particles and discourse markers occurring in the source language. The data show cases in which immigration interpreters the omitted discourse markers defendants and witnesses used, especially less common ones such as *bueno, pues*, and some of the others mentioned above. Also, immigration interpreters added discourse markers to gain time to organize their thoughts, especially when the defendant's testimony lacked organization.

The following texts reveal some of the discourse markers interpreters omit when rendering testimony in the TL:

Excerpt 38 is from Case 26.

38.1 Defense attorney: And in your town were there a lot of FARC present?

38.2 Interpreter: *En su pueblo ¿había mucha FARC?*

38.3 Defendant: Eh digamos que eran grupos de inteligencia.

38.4 Interpreter: There were some intelligence groups

Excerpt 39 is from Case 15.

39.1 Defendant: *Yo no soy del mero mero mero Puebla, Puebla. Soy del estado de de Puebla.*

39.2 Interpreter: I did not come from Puebla Puebla—that is, the state, Judge. I come from the State.

Excerpt 40 is from Case 18.

40.1 Defendant: *Y cuentan eh en a él lo mataron frente de la casa donde la nacimos o sea en la casa paterna o sea...*

40.2 Interpreter: ¿Cómo?

40.3 Defendant: *El el entable de nosotros es al frente y la casa paterna donde viven mis padres...*

40.4 Interpreter: So that was very next to uh this uh you know processing place was right next to uh our paternal our father's house.

Excerpt 41 is from Case 8.

41.1 Defendant: *Uff, ah no recuerdo, cuando la obtuve allá o cuando la cambié aquí.*

41.2 Interpreter: I don't remember. When I got it there or when changed it here.

Excerpt 42 is from Case 6.

42.1 Defendant: *Eso era lo que ella hacía.*

42.2 Interpreter: That's what she did.

42.3 Defendant: No podía salir a ningún lado, estaba atemorizada..

42.4 Interpreter: She couldn't go anywhere; she was frightened...

42.5 Defendant: *...de pronto le sucediera algo.*

42.6 Interpreter: ...that something could happen to her suddenly.

Digamos in line 38.3 could be interpreted as *let's say*. This discourse marker may be used to initiate a conversation but is also used to express imprecision in a definition. The speaker does not know exactly how to define the type of group FARC is or its function in this particular situation. It is also probable that the intention of the speaker is to convey that he doesn't want to recognize the people in question as part of the guerrilla forces known as FARC. Therefore, *digamos* has an important pragmatic function in the sentence that is omitted by the interpreter in line 38.4.

Excerpt 39 shows a Mexican discourse marker: *mero*. *Mero* is an expression commonly used in Mexico that has different meanings depending upon its position in the sentence and the number of times it is used. *Mero* itself has multiple meanings. When it is used as *mero mero* in phrases like *Eres el mero mero*, it means *You are the big cheese* (Weyers, 2005). It can also be used as an intensifier of an adjective; for instance, *Eres mero guey* means *You are very silly*. *Mero* used with a preposition as in *Soy del mero centro* means *I am from downtown itself* (Weyers, 2005). In Line 39.1, the defendant used *mero* three times to strongly assert that he was from the state of Puebla in Mexico. This is important to note since he not only wanted to state where he was from but also wanted to emphasize that he was from the state of *Puebla* and not from the capital city of that state, also called Puebla. At some point in this hearing, there had been some confusion

regarding this defendant's place of origin. Therefore, the defendant tried to make clear where he was from through the repetitive use of the discourse marker *mero*. The interpreter rendered this as I am from Puebla in Line 39.2, which does convey the meaning of what the defendant said. Nevertheless, the interpreter failed to convey the illocutionary force intended by the speaker, which was to stress the fact that he was from the state of Puebla but not the city of Puebla. Also, the stress marked by the defendant's intonation when he said this reinforces his intent to clarify. The interpreter did not catch the defendant's pragmatic force, and therefore *mero mero* was not interpreted as intended. It is hard to find a direct translation for the discourse marker *mero*, since the meaning varies depending upon its position in the sentence. Interpreters may have to resort to other linguistic mechanisms in order to be able to respect the pragmatic force of this discourse marker.

Cuentan is a discourse marker that initiates a narrative. *Cuentan* has the function of implying that something is shared knowledge. An equivalent in English would be *people say*, *they say*, or *rumor has it*. As can be seen in Line 40.2, the interpreter does not understand the defendant's answer in the first place and thus asks for clarification verbally by asking *¿Cómo?*, meaning *What?*. The interpreter in Line 40.3 was so concerned with figuring out the content of the defendant's message that he omitted the discourse marker. The example in Line 41.1 shows another discourse marker that is overlooked by the interpreter. *Uff* is a marker normally used to express exhaustion. In this context, *uff* marks the continuation of the narration but also conveys negation and uncertainty. This marker is very important because it reveals a lot about the speaker's credibility.

Although it could be argued that the interpreter already conveys a message of uncertainty by rendering Line 41.2 as *I don't remember*, the failure to include this discourse marker

nevertheless mitigates the pragmatic force of the speaker's original expression of uncertainty. In Excerpt 42, Line 42.1 shows that the interpreter did render an equivalent in the TL for *de pronto* in Spanish, but not the correct one for this context. When *de pronto* functions as an adverb its equivalent in English is *suddenly*; however, when it functions as a discourse marker its equivalent in English is different. In Central America, it is very common to use *de pronto* to convey fear of something happening. In this case, the defendant was afraid that something would happen to his daughter. A closer rendering of this marker in English might be *God forbid*. Therefore, the interpreter's rendition of *de pronto* as *suddenly* totally changes the intended illocutionary force. This extra cue about the defendant's fear for his daughter's safety is not present in the interpreter's rendition.

Berk-Seligson (1990) reported that interpreters often omit discourse markers such as well because they regard them as meaningless. However, omitting them in tag questions has an impact on the illocutionary force of the tag (Berk-Seligson, 1990). I concur with Berk-Seligson on this point, as my data also show immigration interpreters mistakenly treating these discourse markers as inconsequential. As shown in the excerpts above, discourse markers often carry more intricate meanings than do other words. They need to be interpreted on a pragmatic as well as a semantic level. Hale (2004) acknowledges the difficulty of interpreting discourse markers. She recommends that interpreters first try to determine the illocutionary intent of the speaker so as to be able to more faithfully interpret discourse markers.

6.5.1. Hesitation Particles

Interpreters' lexical choices and verbal role affect not only the meaning attributed to the testimony, but also the pragmatic intentions attributed to the judicial participants, to such a degree that the interpreter's role can be seen as linguistic coercion. O'Barr (1982) asserts that

speech style, which may be regarded as powerful or powerless, is often used to assess a person's character and credibility. Lakoff (1973) proposed a list of speech particles that can make a person sound less powerful and therefore less credible. She states that women's speech is characterized by such particles. However, Hale (2004) argues that this gender-based distinction is outdated, since there is mounting evidence that men also use these powerless particles. (I discuss this in more detail in Chapter 8). Conley and O'Barr make the following statement about powerless speech:

Among the specific features of this style are the abundant use of hedges (prefatory remarks such as "I think" and "It seems like"; appended remarks such as "you know"; and modifiers such as "kinda" and "sort of"); hesitation forms (words and sounds that carry no substantive meaning but only fill possible pauses in speech, such as "um" and "well"); polite forms (for example, the use of "sir," "ma'am," and "please"); question intonation (making a declarative statement with rising intonation so as to convey uncertainty); and intensifiers (for example, "very," "definitely," and "surely"). (Conley & O'Barr, 1990, p.67)

As was explained above, hesitation particles are forms such as *uh*, *um*, and *mm*. The data show that interpreters not only deleted hesitation forms that had been introduced by the defendant but also added their own, just as they did with some discourse markers. The following texts illustrate how interpreters add hesitation particles, making the original testimony sound less assertive and the same time lengthening the testimony as rendered in English:

Excerpt 43 is from Case 5.

43.1 Defendant: *Era darle un supor, darle un support a las a las madres de familia...*

43.2 Interpreter: It was to support, give some support to the uh uh the the mothers and their families...

43.3 Defendant: *mmm... con el fin de proteger a los niños y a los jóvenes.*

43.4 Interpreter: with the uh with the uh with having in mind to protect the uh the uh the children and the young people.

Excerpt 44 is from Case 5.

44.1 Defendant: *...para que ellos los sigan y los apoyen en en un futuro golpe de estado.*

44.2 Interpreter: ...so that these people would follow them and would support them and in a future uh uh uh coup d'état...

Excerpt 45 is from Case 5.

45.1 Defendant: *Y y es sabido que que dentro de la... ellos están involucrados dentro de la población.*

45.2 Interpreter: And I uh I have known that that they had been ah, ah they had been inside of the population.

The above excerpts illustrate how the interpreter inserts hesitation forms that were not in the original statements in Spanish. Therefore, the testimony as rendered in English sounds less powerful and less assertive. In Line 44.2 the interpreter inserts her own hesitation forms or pauses before the phrase *coup d'état*. Most likely the interpreter, despite her attempts to match the defendant's testimony, sounded less assertive in English because of the hesitation forms she incorporated. The same applies in Lines 43.4 and 45.2, in which the interpreters sounded more tentative than the defendant because of the hesitation forms they added. The interpreter in the above examples used hesitation forms to help her organize her thoughts and render the legal equivalent of the source language in the target language. However, as Berk-Seligson and Hale point out, this practice has negative consequences for the defendant: his testimony seems less powerful. Hale quotes Goldman-Eisler to explain from a psycholinguistic perspective the reasons a person might use hesitations:

...(1) the choosing of words, (2) the recording of a story, deducing from it a general proposition, (3) the concise formulation of such general propositions, and (4) the quality of thought content as judged by level and scope of generalization attained.... (Goldman-Eisler, 1968, p.123, as cited in Hale 2004, p.96)

It seems that a person hesitates as part of the thinking process in order to organize ideas or gain time to think carefully. When interpreters use these hesitation forms in their English version of the testimony they do so to organize what the defendant has said and then recast it in the TL.

Although interpreters do lengthen the testimony by adding their own hesitation particles to the TL rendition, they also shorten the testimony by failing to incorporate the defendant's SL hesitation particles in the TL rendition. The interpreters I observed may have omitted hesitations because thought they were meaningless. In Line 46.2, the testimony as rendered in English sounds much cleaner and shorter, and the defendant sounds more powerful and credible, thanks to the omission of hedges the defendant produced:

Excerpt 46 is from Case 5.

46.1 Defendant: *mmm... Llevábamos materials de construcción...*

46.2 Interpreter: We would take construction materials...

46.3 Defendant: *...eh alimentos...*

46.4 Interpreter: ...food goods...

Scholars such as Berk-Seligson highlight the importance of rendering testimony faithfully. This practice includes rendering the pauses and fillers in the original testimony. She states that “if the Spanish speaker sounds hesitant and unsure, the interpreter should sound equally as hesitant and unsure in her English interpretation” (1990, p.140). However, as can be seen in the above examples, immigration interpreters both added and deleted such particles. Hale attempts to account for the reasons interpreters use hesitation forms. She concludes that sometimes these occur for no apparent reason; however, they often indicate “a translation difficulty, a thought process or a doubt, a preface to a pause, a backtracking, or a grammatical or pronunciation error” (Hale, 2004, p.101).

In the data I analyzed I also observed that the number of hesitation features in the interpreter's English rendition increases with the level of difficulty; that is, these features are in direct relation to the degree of difficulty of the word or phrase in question. The more difficult it is to interpret an utterance, the longer it takes the interpreter to process it and the more hesitations will be used. When interpreters are confronted with lexico-semantic difficulties due

to unfamiliar dialectal or regional words or phrases, the accuracy of their performance is restricted. In addition, the defendant's particular speech style and organization of discourse influence the duration of these pauses. I would call this increase in the use of hesitation particles the HIP, or hesitation increase phenomenon. Interpreters make use of hesitation forms to solve problems with their own lexico-semantic competence or with the defendant's speech style or lack of good discourse-organization skills. The following texts show how interpreters increase their use of hesitation forms when they are unable to find a translation that is close to the original word uttered by the defendant:

Excerpt 47 is from Case 31.

47.1 Defendant: ...*lo cual fue vilmente asesinado también como los otros compañeros...*

47.2 Interpreter: ...and he was uh he was uh cruel assassinated by the ...

47.3 Defendant: [y él intentó que hicieron por *materme.*]

47.4 Interpreter: ...and also they tried to uh kill me.

Excerpt 48 is from Case 31.

48.1 Defendant: ... *a llevarles útiles para que los hijos estudiaran.*

48.2 Interpreter: ...to bring uh uh mm uh help for the children for the children for the school.

Excerpt 49 is from Case 35.

49.1 Defendant: ...*porque nunca nunca hice repulsa, por lo que él hizo...*

49.2 Interpreter: ¿Cómo?

49.3 Defendant: ...*nunca hizo, hice repulsa...*

49.4 Interpreter: ...because you never uh mm...

49.5 Immigration Judge: [Resisted!]

49.6 Interpreter: ...resisted the uh the arrest.

Excerpt 50 is from Case 18.

50.1 Defendant: *Y compramos los tiquetes y llevamos las remesas a los bancos de la República en Bogotá o Medellín. Yo tengo ahí...*

50.2 Interpreter: We take and then we take uh we purchased the tickets and then after there we take everything to uh the bank in Bogotá or in Medellín.

Excerpt 51 is from Case 18.

51.1 Defendant: *Sacábamos leche...*

51.2 Interpreter: Uh we we uh we sold milk...

51.3 Defendant: ...*y productos del campo—yuca, plátano.*

51.3 Interpreter: ...and uh uh uh other uh products from the field like cassava, plantain, or bananas.

Excerpt 52 is from Case 18.

52.1 Defendant: *Nosotros limitamos con ellos.*

52.2 Interpreter: (0.4) *¿Cómo?*

52.3 Defendant: *Limitamos con Panamá.*

52.4 Interpreter: (0.3)

52.5 Defendant: *Limitamos o sea somos frontera.*

52.6 Interpreter: Uh we have uh we have uh ah borders with Panama we went through Panama.

Excerpt 53 is from Case 18

53.1 Defendant: *Los cocos son unas cosas como unas canecas que se echa la piedra ahí que empieza a girar en un eje...*

53.2 Interpreter: Oh, okay, we had uh uh a little uh place where there was where we would uh the gold it was like uh tumbling machine where you would put the stones in the bigger parts of the people would bring in...

The interpreters seemed to experience some conflict when interpreting words like *vilmente* (in Line 47.1), *útiles* (in Line 48.1) *hacer repulsa* (in Line 49.1), and *remesas* (in Line 50.1).

Therefore, they used hesitation particles or definitions in their attempts to find the closest meaning for these words. *Vilmente* means *cruelly*. Even though the interpreter did not fail to render the legal equivalence of this word, he added hesitation forms in the English version. *Útiles* seemed a little more problematic. *Útiles* means *school books* or *school supplies*. The interpreter instead rendered it as *help*, which does not mirror what the defendant said. *Útiles* seemed to be an uncommon word, so in addition to failing to provide linguistic equivalence, the interpreter also introduced hesitation particles into the TL rendition.

Hacer repulsa was an expression the interpreter was unable to figure out. He added hesitation particles as he sought first to understand what *hacer repulsa* meant and second to find an expression in English that conveyed this meaning. However, in Line 49.5, the immigration judge, who happened to be bilingual, was able to figure it out, and interjected *Resisted!*, which was the correct term. *Remesas*, in Line 50.1, was another term that caused the interpreter to hesitate. The

hesitations increase as he searches for an equivalent for *remesas*. *Remittance* would be the translation for *remesa*, which the interpreter rendered as *everything*. At no point did these interpreters request permission from the immigration judge to address the defendants for clarification, and it is important to note that these defendants did not sound hesitant at all. The interpreters were the ones adding these hesitation features that, according to Lakoff and O'Barr, constitute powerless speech.

In Line 51.1, the interpreter failed to convey legal equivalence for the expression *sacar leche*, which not only means to sell milk but also to milk an animal. The presence of hesitations shows the difficulty of interpreting this expression. As in previous examples, the defendant gets hit with the interpreter's added hesitation forms as well as with the failure to maintain linguistic equivalence in the English rendition. Excerpt 52 shows the interpreter's attempts to figure out what *limitar* meant in that context. Using the question *¿Cómo?*, meaning *What?*, and silence as a non-verbal query in Line 52.2, the interpreter intended to prompt the defendant to repeat what he had just said. The interpreter was successful at getting the defendant to repeat, but added hesitation forms to his rendition in Line 52.6.

The last example shows how the number of hesitation forms increases as the interpreter struggles to interpret *cocos* and *canecas*. The defendant is referring to a container used to dig out gold. As can be seen in line 53.2, the defendant's testimony is hit again by the interpreter's hesitation particles, since he does not know how to interpret this specialized vocabulary. Trabing (2002) explains that interpreters will have comprehension problems if they cannot establish any linguistic connection with existing knowledge:

If the gap between new and existing knowledge is too great, a connection cannot take place and comprehension does not occur. If you cannot get the idea of something through logical deduction and connection to some pre-existing information, then you will miss the point of the idea. In the communication

process, the interpreter does not have to develop her own thoughts; she replaces that function or stage with analyzing and comprehending someone else's already fixed and expressed thought. The interpreter is an analyst (or intuitive mind-reader, sometimes!), not a parrot. The interpreter stores meaning in her memory, not just words. (p.12)

As can be seen in the excerpts above, interpreters seemed to understand most of the words presented. However, they added hesitation marks that could have been damaging to the defendant's credibility and the perception of his or her character and could have placed defendants at a linguistic disadvantage. Trabing emphasizes that interpreters should match the body language and any hesitation marks presented in the original message. These powerless particles were not used by any of the defendants, so their addition by the interpreters could constitute a violation of interpreting ethics. Trabing states:

The jury, the judge, and lawyers have already heard the tone of voice, the "ahs" and "ums," the hesitations or whatever, and your interpretation has to match the sound and the body language of the official speaker. If these don't match, there is probably an interpretation problem! (2002, p.21).

As discussed in the analysis, the interpreters in the above excerpts did have a problem with the interpretation of some lexical items; therefore, defendants were hit with an increase in hesitation particles that were not present in the SL but were introduced by the interpreters. I agree with such scholars as Berk-Seligson, Lakoff, Holmes, and O'Barr that hesitations constitute particles of powerless speech, and I would argue that the HIP has a dual negative effect on both defendants and the interpreters. On the one hand, the defendant's credibility and character get hit by the interpreter's powerless speech hesitation particles. On the other, the interpreter's image and perceived linguistic competence gets hit as the interpreter adds hesitation particles in the quest for a word or expression that best mirrors the defendant's lexical choice. Thus, the HIP is a manifestation of the interpreter's doubts. It certainly must influence the image the immigration

judge is forming of the defendant's character and linguistic competence. Future research is needed to assess judges' subjective reactions to interpreters' use of hesitation forms and to determine whether these reactions correlate with judges' assessments of the competence of both defendants and interpreters.

6.5.2. Quantitative Evidence of Hesitation Particle Insertions

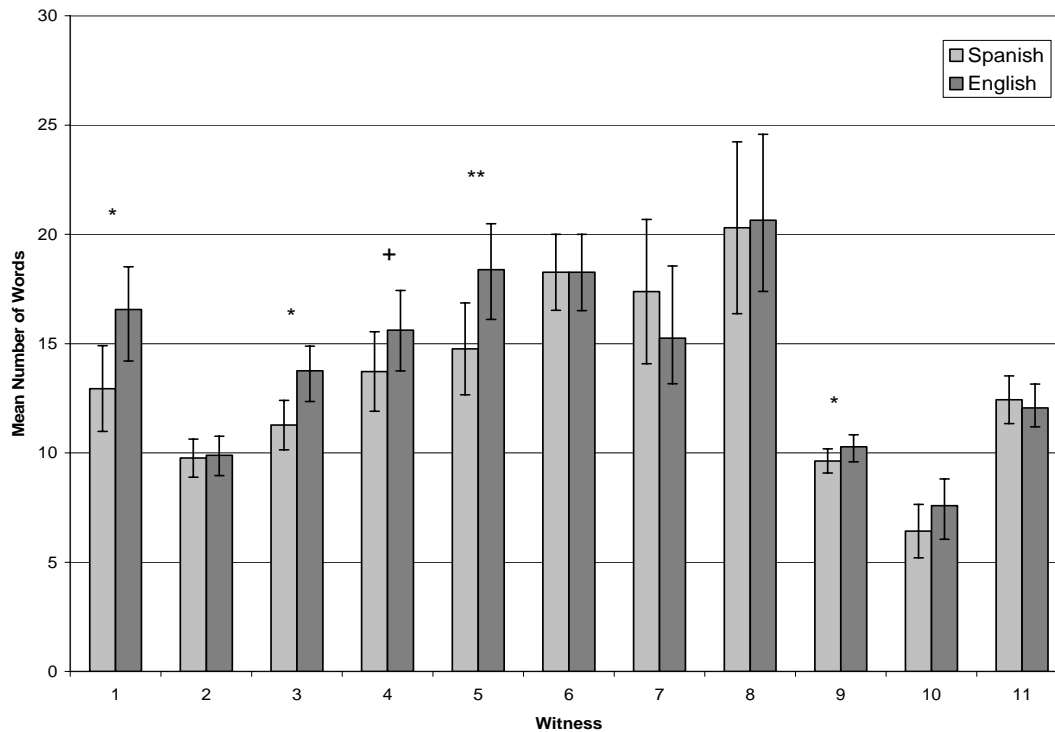
A t-test was run in order to be able to show quantitatively that when interpreters added hesitations forms and discourse markers to their English versions, these English versions became longer than the original Spanish testimony. The goal was to determine the extent to which interpreters lengthened or shortened the original testimony by adding hesitation particles in the target language, English. Testimony selected for this t-test consisted of adjacency pairs of answers in Spanish and their English rendition that seemed to have the greatest number of hesitation devices and discourse markers having been added in the English version. I looked for instances of low-register lexical items and speech style as well as regional dialects that interpreters seemed to have difficulty interpreting—I expected these passages to feature the greatest number of added hesitation devices. In a number of instances interpreters also deleted hesitation devices from the English target language rendition that were present in the Spanish source language version; this phenomenon is not analyzed in this study, but may be examined using similar statistical measures in a future study.

The data were drawn from 11 different cases involving a total of five interpreters. The analysis of the data was based on a total of 340 answers in Spanish that contained hesitation forms and other powerless particles in the corresponding English rendition. The data in Table 6.1 present the number of answers per witness and also give the mean length of the answers in Spanish and of their corresponding interpretations in English. The mean is calculated using the

total number of words per answer produced by each witness. The term witness includes defendants, who also testify as witnesses on their own behalf. Hesitation particles such as *uh* and *mmm* are seen as part of a constellation of powerless speech and are each counted as words for this analysis.

Table 6-1 Significant differences between mean words per answer in Spanish and in English: Results of t-tests.

Witness	Language	Mean	Number Answers	SD	T	P	effect size
1	Sp. words	12.9375	16	7.85255	-2.580	.021	.645
	Eng. words	16.5625	16	9.45141			
2	Sp. words	9.7632	38	5.38483	-.172	.864	
	Eng. words	9.8947	38	5.71763			
3	Sp. words	11.2703	37	6.88254	-2.399	.022	.394
	Eng. words	13.7568	37	8.61654			
4	Sp. words	13.7222	18	7.72167	-2.066	<u>.054</u>	.487
	Eng. words	15.6111	18	7.88997			
5	Sp. words	14.7619	21	9.62759	-4.818	.000	1.05
	Eng. words	18.3810	21	10.40421			
6	Sp. words	18.2593	27	9.04090	.000	1.000	
	Eng. words	18.2593	27	9.07487			
7	Sp. words	17.3750	16	13.21048	1.360	.194	
	Eng. words	15.2500	16	8.32266			
8	Sp. words	20.3000	20	17.55623	-.218	.830	
	Eng. words	20.6500	20	14.66566			
9	Sp. words	9.6364	88	5.12641	-1.766	<u>.081</u>	.308
	Eng. words	10.2727	88	6.48203			
10	Sp. words	6.4167	12	4.20948	-1.067	.309	
	Eng. words	7.5833	12	5.35059			
11	Sp. words	12.4255	47	7.45638	.522	.604	
	Eng. words	12.0638	47	5.97969			



+ $p < .10$ (two-tailed)
 * $p < .05$ (two-tailed)
 ** $p < .001$ (two-tailed)

Figure 6.1 Mean length of witness answers in Spanish and in English.

6.5.2.1. Interpretation of Table 6.1 and Figure 6.1.

In Figure 6.1, the bar chart, the height of the lighter gray bar represents the average number of Spanish words per answer and the height of the darker gray bar represents the average number of English words per answer. There are 11 pairs of bars in the graph, one pair for each witness. From examining the bar chart, we can see that the average numbers of Spanish and English words per answer are closer to each other for some witnesses than for others. For Witness 2, for example, we can see that the two bars are almost the same height. This matches the information in Table 6.1 and in Figure 6.2, the box-and-whisker plot below, indicating that the average Spanish-English difference for Witness 2 is close to zero. On the other hand, we see

that for Witness 1 the darker bar is noticeably taller than the lighter bar. For Witness 1, the average number of Spanish words per answer is 12.94, whereas the average number of English words per answer is 16.56. On average, there are 3.63 more words in English than in Spanish per answer for Witness 1.

Comparing the heights of the bars for both Spanish and English across witnesses, we can see that some witnesses tended to speak at greater length than others. The average length of answers was shortest for Witness 10, and longest for Witness 8. The difference can be explained by characteristics of these witnesses and/or the content of their testimony, as can be seen in the ethnographic notes and transcript, which will be discussed later in this chapter.

An asterisk above the pair of bars indicates that the difference in length between answers in the two languages is significant according to the t-test. Statistical significance denotes a difference that is greater than would be expected due to chance alone. Significant differences at the .05 level (two-tailed) were observed for Witnesses 1, 3, 5, and 9; the difference for Witness 4 was significant at the .10 level (two-tailed) or at the .05 level (one-tailed). From a purely descriptive standpoint, the Spanish-English difference for Witness 9 is relatively small. The significant results of the t-test can be attributed to the number of answers for Witness 9, 88 answers, which is considerably greater than the number of answers for any other witness. For Witness 10, on average, answers were 1.17 words (slightly more than one word) longer in the English rendition than in the original Spanish. Answers for Witness 9, on average, were .64 words (about $\frac{2}{3}$ of a word) longer in English than in Spanish. This difference was significant for Witness 9, but not for Witness 10. However, it must be noted that the number of answers for Witness 10 is only 12. This is relevant because significance is influenced by sample size. Had there been a larger number of answers, a comparable difference would have been significant. By

contrast, the average number of words per answer was greater in Spanish than in English for Witness 11, although the average difference was .36 words (about $\frac{1}{3}$ of a word). This difference was not significant. When the sample size is large, small differences can be statistically significant.

In considering Figure 6.1, the bar graph, as a whole, we can see that results vary across witnesses. It is worth noting that in the five cases in which the difference between the average length of Spanish and English answers is statistically significant, the difference is always in favor of English, i.e., English answers are longer. However, for two witnesses, Witness 7 and Witness 11, the average length of answers in Spanish is actually greater than the average length of English answers, although the difference is not statistically significant. Therefore, we must be cautious in making blanket statements.

In attempting to understand the results in greater depth, I investigated whether there were any common features shared by Witnesses 1, 3, 4, 5, and 9 that might be revealed in the transcripts and ethnographic notes and that would help to explain why significant differences in mean words per answer between the SL and TL versions were found for these witnesses but not for the others.

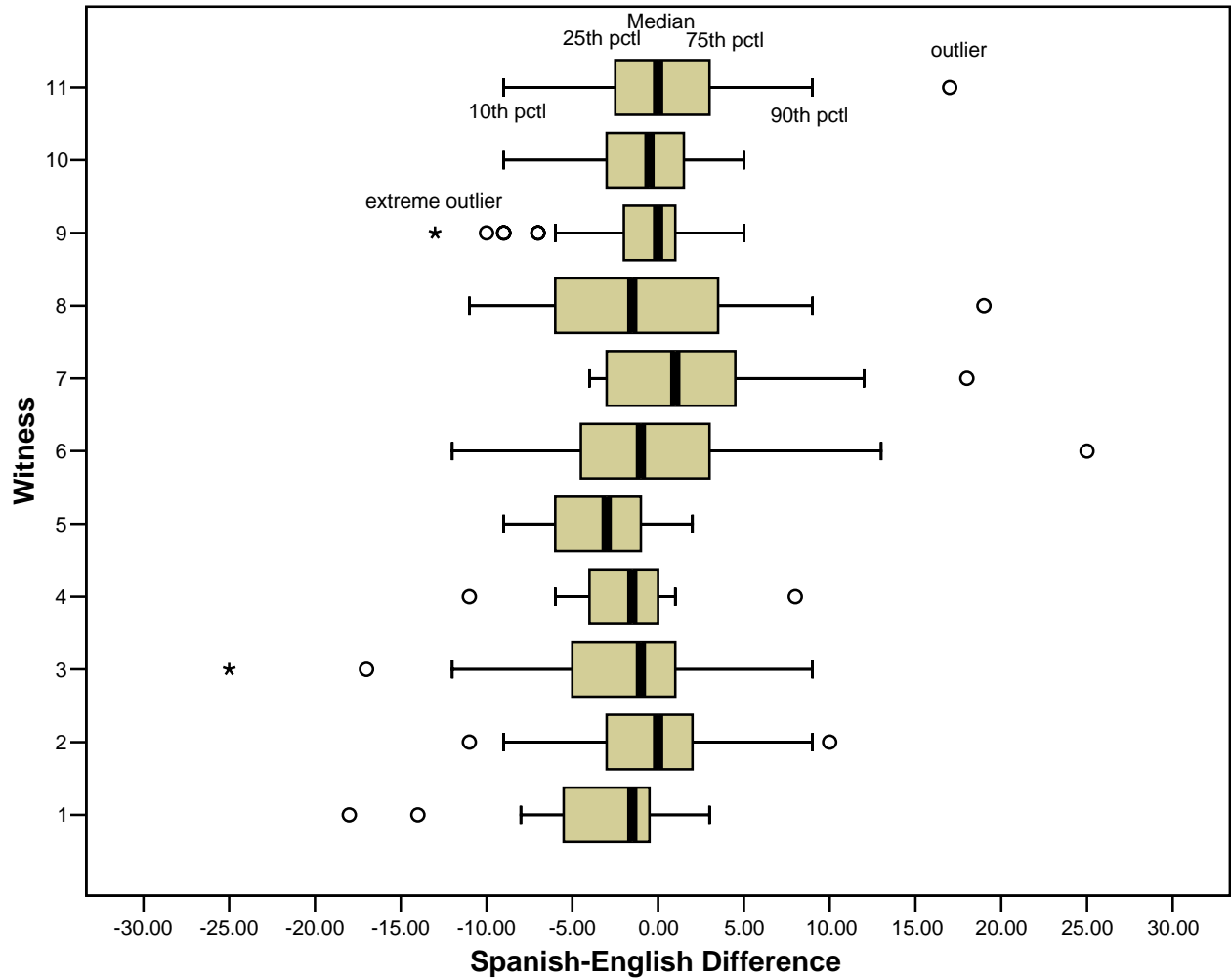


Figure 6.2. Witness answers by number of Spanish word per answer minus number of English word per answer.

Table 6-2. Descriptive statistics on differences (number of Spanish words minus number of English words) per answer by witness.

Witness	Number of Answers	Mean	Median	Std. Dev.	Min.	Max.
1	16	-3.63	-3.19	5.62	-18.00	3.00
2	38	-0.13	0.00	4.70	-11.00	10.00
3	37	-2.49	-1.00	6.31	-25.00	9.00
4	18	-1.88	-1.50	3.88	-11.00	8.00
5	21	-3.62	-3.00	3.44	-9.00	2.00
6	27	0.00	-1.00	7.28	-12.00	25.00
7	16	2.13	1.00	6.25	-4.00	18.00
8	20	-0.35	-1.50	7.17	-11.00	19.00
9	88	-0.64	0.00	3.38	-13.00	5.00
10	12	-1.17	-0.50	3.79	-9.00	5.00
11	47	0.36	0.00	4.75	-9.00	17.00

6.5.2.2. Reading Box-and-Whisker Plots

The X axis (horizontal axis) displays the scale for Spanish-English differences (number of Spanish words per answer minus number of English words per answer). The Y axis (vertical axis) displays the ID number for each of the 11 witnesses. There are 12 plots in the graph, one for each witness. The dark line in the middle of the box represents the median (the middle score) for a witness. For example, the median score for Witness 11 is zero. The left-hand edge of the box represents the 25th percentile and the right-hand edge of the box represents the 75th percentile. In less technical language, the 25th and 75th percentiles are the scores within which the middle 50% of the scores falls. For example, the middle 50% of differences in the number of Spanish and English words per answer for Witness 11 falls between -3.00 (three more English words than Spanish words) and +3.00 (three more Spanish words than English words).

The ends of the lines extending from the left and right edges of the boxes represent the range within the majority (where 80% to 90% of the scores fall). For example, for Witness 11 the majority of scores fall between -8 and +8. Narrower boxes and line spans indicate less variability (or more similarity) in Spanish-English differences across answers for a given witness; wider boxes and line spans indicate more variability (or less similarity). For example, we see from Figure 6.2 that the differences for Witness 5 are less variable than the differences for Witness 6. Circles (○) represent outliers—scores that fall either far below or far above the majority of scores. For Witness 11, the score of +17 (17 more Spanish words than English words) is an outlier. Stars (*) represent extreme outliers. For Witness 3 the score of -25 (25 more English words than Spanish words) is an extreme outlier.

6.5.2.3. Interpretation of Descriptive Table and Box-and-Whisker Plot

In looking at Table 6.2, the table of descriptive statistics, and Figure 6.2, the box-and-whisker plot, we can see differences across witnesses. For some witnesses (Witness 2 and Witness 8, for example), the mean difference between Spanish and English words is close to zero, meaning that when we average across all answers the number of Spanish words is approximately equal to the number of English words. For other witnesses (Witnesses 1, 3, 4, and 5) the mean difference is less than zero, meaning that when we average across all answers, the number of Spanish words is less than the number of English words. These results are congruent with the results of the t-tests, which reveal significant differences for these four witnesses. We can also see greater variability in Spanish-English differences across answers for some witnesses than for others. Where variability is great, it might be of interest to look at answers at either extreme of the range to see if there is anything that stands out in these answers. Taking Witness 6 as an example, the transcript shows that there are 12 more English words than Spanish words in

answer 20. A close analysis of the content of these answers in the transcript could explain this contrast.

6.5.3. Qualitative Interpretation of the Results

The statistical analysis above shows that interpreters lengthened their TL renditions of the testimony of defendants and witnesses. Berk-Seligson (1990) encountered a similar phenomenon, particularly when English was the target language. She attributed this lengthening to a shift from a fragmented to a narrative style on the part of interpreters. However, my findings reveal a slightly different linguistic mechanism at work: A qualitative analysis of the transcripts analyzed in the t-test indicates that interpreters lengthen the testimony in the TL rendition in order to resolve lexical difficulties. I analyzed the following passage, taken from Witness 6, answer 20, to see what caused the interpreter's English version of the testimony to be so much longer than the original Spanish version:

Excerpt 54 is from Case 8.

54.1 Defendant: *Mi último trabajo duró 6 años y me peleé con el supervisor americano blanco y aún así él lo llama y sé que le va a dar buenas recomendación mías.*

54.2 Interpreter: My last job was uh for 6 years I had my last job with a white supervisor I had a fight with him I left and being so, and even being so I know he could uh mm give me good references.

The underlined portions of the text in Line 54.2 indicate that the interpreter had some difficulty interpreting the verb *durar*. The interpreter is post-posing information already mentioned about the defendant's last job. This repetition (*I had my last job*) represents an attempt to remedy the interpreter's lack of accuracy. The effect is a rendition that is longer, more hesitant, and more redundant, thus making the defendant sound hesitant and redundant.

In the case of Witness 3, the interpreter also encountered difficulty interpreting accurately; therefore, the English version is longer. Consider Excerpt 55, in which there were 25 more English words than Spanish words:

Excerpt 55 is from Case 31.

55.1 Defense attorney: What was she worried about?

55.2 Interpreter: *¿por qué estaba preocupada ella?*

55.3 Defendant: *...Porque ya teníamos humm amenazas y habían asesinado a varios compañeros, lo cual pensamos que no era para todos nosotros.*

55.4 Interpreter: Uh, she was worried because uh we had received a few threats and also a fewer of uh of our uh co... uh uh comrades or uh mm members of the party uh were had been assassin... assassinated, so that was, that was her concern.

The word *compañero* in Spanish has different translations depending upon its context. It could be interpreted as *classmate* within an academic environment, *co-worker* or *colleague* in a work context, or *comrade* within a particular political context. As can be seen in the passage above, the interpreter uses hesitation particles in her search for the context-specific English equivalent of the word *compañero*. At the end of her rendition this interpreter adds *...so that was, that was her concern*, post-posing information that had already been presented at the beginning of the sentence, i.e., *she was worried because....* The transcript also shows that this interpreter faced an additional linguistic challenge: the defendant in this case used a low-prestige register or regional dialect of Spanish and also used jargon pertaining to Colombia and Colombian politics. I have pointed out in this chapter that lexicon is directly influenced by the regional dialects of defendants and witnesses. The data also show that interpreters are affected by the speech style of each defendant. It seems that these defendants and witnesses are using a non-standard variety of Spanish that is difficult for interpreters to understand and to put into English. Is level of education a variable that affects the speech register of the defendants and witnesses to such an extent that they become almost incomprehensible to the interpreters? The interpreter for Witness

I faced a peculiar challenge: the defendant was from Brazil, yet requested a Spanish interpreter. The testimony was hard to understand because it was in a dialect of Spanish that was heavily influenced by Portuguese, and the interpreter was not familiar with it. Therefore, the interpreter added hesitation forms and discourse markers and also pre-posed and post-posed some expressions in the English rendition in response to the unusual word order of this defendant's testimony. The following dyad shows how the interpreter resolves some of the problems that appear in the defendant's discourse:

Excerpt 56 is from Case 11.

56.1 Defendant: *Porque yo no sabía que para mí asilo esta palabra en mi propia lengua yo siempre comprendí que asilo es un sitio para las personas más viejas...*

56.2 Interpreter: *Eh for one thing that in my own language I always understood that the word asylum for me my own language means that is a place where elderly live, elderly people reside.*

The same explanation holds for Witnesses 4 and 5. The interpreters for these witnesses confronted dialectal differences and the low-prestige register of these defendants. In the case of Witness 5, the defendant used quite a few idiomatic expressions, bound collocations, and discourse markers from Mexico and this affected the interpreter's performance. I discuss problems with bound collocations in Chapter 5. The transcripts show that the interpreter's addition of hedges and discourse markers lengthened the testimony in the English rendition. In his quest for linguistic accuracy, he used hedges and other repair mechanisms to give himself time to think and to come up with the best possible interpretation. Unfortunately, he was most likely unaware that these tactics could very well have been damaging to the defendant's image and to perceptions of his credibility.

The t-test showed that the testimony in Spanish of some witnesses was longer than the interpreter's English rendition. The transcripts show that, overall, Witness 11's testimony was lengthy. Even though the t-test for this witness shows no significance, there is a qualitative

explanation for this finding. This interpreter not only omitted hedges, but also pieces of information such as adverbial phrases, expressions, and sometimes dependant clauses. There are several possible explanations for this particular interpreter's difficulties. This interpreter is a native speaker of Spanish, and although the bilingual ability of this interpreter is high, the data show that the interpreting was skewed in several instances. By using all the coercive mechanisms mentioned in this chapter, this interpreter changed not only the pragmatic force of the witness's testimony but also the meaning of some words, all of which very probably affected the outcome of the case.

Even more shocking was the interpreter's point of view on the case itself. At the end of the hearing, the interpreter reported not believing the defendant; in other words, the interpreter believed that this particular defendant was lying and had fabricated a story to present in court. This interpreter and others had previously asserted at various other times that they could tell when a defendant was lying. These interpreters believed that the defendant's use of hesitation forms indicated he was lying. The transcript shows that this interpreter did not retain the defendant's hesitation marks in the TL. In other words, the interpreter "cleaned up" the defendant's testimony, which is one of the reasons why there are fewer words in the English version. Even though the defendant may have sounded more assertive due to the absence of these hesitation marks, the interpreter did not believe that he was telling the truth, which must have had some effect on the TL rendition. The transcript also shows the interpreter failing to interpret certain pieces of information, perhaps because they were thought to be inconsequential, perhaps because they were simply forgotten. It is very likely that the interpreter's subjective reaction to this witness did influence her omission of important pieces of testimony that were relevant to the hearing and necessary to establish the defendant's credibility. The interpreter's bias could very

well have had a tremendous impact on her linguistic performance. It is also interesting to note that this defendant did lose his case. The immigration judge did not grant him political asylum and ordered that he be deported from the United States. Although the judge's decision is based not only on the oral testimony but also on the evidence presented, the judge did state that he did not believe the defendant's testimony and accused him of lying to the court.

6.6. CONCLUSION

The preceding analysis shows that interpreters play an active role as co-builders of the courtroom reality of defendants and witnesses. Speech is a very complex system in which many different social, cultural, and psychological factors come into play. The data show that interpreters play a pivotal role in constructing the courtroom reality, and mitigate or magnify the culpability of defendants through coercive linguistic techniques: inaccurate lexical choice, the use of SL rather than TL words and phrases, the use of definitions, and the improper addition or deletion of repair mechanisms such as discourse markers, hesitation forms, and silence. Some judges and attorneys were clearly influenced by the lexical choices of the interpreters. This indicates that the linguistic coerciveness of interpreters influences other participants in these judicial proceedings. When interpreters lengthen the testimony, they not only change the quantity of the words but also the quality of the testimony, turning it into powerless speech. The insertion of hedges made the testimony, as rendered in English, sound less assertive and thus less credible. Finally, it has been shown that the interpreter's intrusiveness changes the pragmatic force intended by the speakers, which constitutes a total violation of the ethical standards set for interpreters by the Federal Judicial Center.

This chapter has also shown that interpreting encompasses an array of extra-linguistic factors. Interpreting is a culturally bound activity that confronts the interpreter with linguistic, interpretive, and cultural constraints. The immigration judge analyzes hard evidence and testimonial evidence in making a decision. The linguistic power interpreters wield enables them to create a new courtroom reality by manipulating language when interpreting the testimony of witnesses and defendants. The interpreter's version of the testimony, as it is rendered in English, is the only testimony the monolingual English-speaking judges and attorneys will understand. The interpreter's version is the official version, the one they will use to reflect on the defendant's innocence or guilt. The interpreter's testimony is indeed an active linguistic construction of the facts, and its accuracy is crucial for all the parties involved.

7. THE EFFECTS OF CALQUING ON INTERPRETING AND ON THE TURN-TAKING SYSTEM

7.1. INTRODUCTION

Courtroom interactions are different from normal conversations. Atkinson and Drew (1979) make use of the conversational turn-taking system to highlight the differences between conversations that occur in court examinations and those that are more casual. Scholars such as Atkinson and Drew (1979) and Mauet (1996) agree that these types of conversations differ with respect to two main features. First, courtroom interactions have fixed conversational exchanges with pre-allocated turns, and second, the illocutionary goal of the examiner is to persuade an audience with effective examining strategies (Mauet, 1996). These pre-allocated turns are organized into question-answer pairs. The speaker's interactional task is either to ask a question or to answer it, whereas in regular conversations there is no anticipated knowledge of the status of the utterances. Generally, the counsel asks the questions, and the examined party, either the defendant or a witness, answers the questions. This fixed allocation also leads the authors to conclude that the person being examined is not in a position to select the next speaker, as is often the case in normal conversations. After the speaker who is being examined answers the question, the judge or the attorney gets the turn back, or regains the floor, indicating that this type of exchange is unidirectional (Atkinson & Drew, 1979).

The goal of forensic rhetoric is to convince a decision maker that events in the past occurred in a particular way (Davies, 1993). Attorneys, defendants, and witnesses rely on their

ability to persuade by means of the spoken word. This ability to persuade will affect not only whether listeners believe that witnesses and their verbal presentations are credible, but also how these listeners view the quality of the evidence, and what they think of a given speaker's personal character. Consequently, planning is an important asset for attorneys, enabling them to limit opportunities for witnesses to repeat damaging testimony or to give unexpected responses that could ultimately prove damaging to their client (Gibson, 1992).

Immigration court proceedings in the United States are conducted orally in English and recorded in English. As Berk-Seligson (1990) points out, the clarity of communication depends heavily on the competence of the interpreter, because interpreters represent a liaison between the defendant, the judge, the attorneys, and the witnesses. Attorneys ask questions and defendants and witnesses answer them. Immigration interpreters play a consequential role not only in the pre-allocated turn-taking system, but also in the distribution of talk and the comprehensibility of the messages. One of the main linguistic challenges immigration interpreters face is the uncomfortable situation of not knowing how to interpret a lexical item or an idiomatic expression. Cultural constraints as well as linguistic incompetence at the syntactic, lexical, and semantic level may be among the reasons interpreters may fail to render a faithful interpretation. Such failure may lead not only to misunderstandings, but also to interruptions and objections from attorneys, especially in situations in which the attorney or the immigration judge is bilingual. Even though the use of calques, borrowings, and faulty literal translations is a clear and direct result of two languages in contact, such use may mislead monolingual defendants. The interpreters observed in this study have a great deal of experience in interpreting and have learned the legal jargon of the immigration court. Nevertheless, my data show interpreters incorporating into their target language renditions potentially misleading calques and incorrect

literal translations that sometimes cause confusion for the defendant. These data also show that when interpreters use these calques, bilingual defendants and witnesses experience less difficulty in deciphering them than do monolingual defendants and witnesses, putting the latter group at a linguistic disadvantage. The defendant's image and version of the story lie in the hands of the interpreter, who is bilingual.

The role of the interpreter is to transmit a message from the source language to the target language, and to become the intermediary between speaker A and speaker B. When immigration interpreters use misleading literal translations and calques in their TL rendition, they may, consciously or unconsciously, influence the turn-taking system and thereby change the original course of the interrogation. This chapter brings to light some of the different calques and literal translations that interpreters use when they face linguistic challenges in interpreting. Secondly, this section discusses to what extent, if any, interpreters influence the turn-taking system of interaction by using literal translations and lexical calques. Finally, this chapter shows how the linguistic skills of bilingual interpreters affect the content of the message.

7.2. PERSPECTIVES ON BILINGUALISM

Many scholars, such as Weinreich (1974), Romaine (1995), and Silva-Corvalán (1994), have defined bilingualism from different perspectives. Valdés (1994) sees bilingualism as “a condition in which there are two ‘native’ language systems in one individual” (Valdés, 1994, p.7). In terms of language competence, Lavandera (1978) explains that those who use both languages for everyday use can be differentiated from those who use only one. Although all these scholars and others have reflected on the definition of bilingualism, they all agree that there

is no set definition of it. Valdés (1994) also agrees that it is not an easy task to provide a concrete and unambiguous definition of bilingualism. However, she affirms that scholars who have studied bilingualism, regardless of perspective, agree on the point of departure—languages in contact. She adds to this assertion the following observation:

From the perspective of the formal study of bilingualism, then, difficult as it might be to offer concrete and unambiguous definitions of bilingualism, it is clear that the condition of “language contact” and its resulting effects on the communicative alternatives developed by persons who are part of such a contact situation is a complex and multifaceted area of inquiry. Indeed, current research on the nature of bilingualism suggests that, rather than applying strict or narrow definitions of bilingualism to the study of bilingual individuals and bilingual societies, it is important to view bilingualism as a continuum and bilingual individuals as falling along this continuum at different points relative to each other, depending on the varying strengths and cognitive characteristics of their two languages. (Valdés, 1994, p.7-8)

Valdés, then, contributes to the literature of bilingualism by asserting that a bilingual person is one who can function in two languages because of an underlying competence in both languages. The different categories of bilingualism established by Valdés & Figueroa (1994, p.11) were used to place each of the immigration interpreters I observed in the appropriate category, so as to be able to determine whether a given interpreter’s type of bilingualism had any effect on whether or not this interpreter used misleading or inaccurate calques in interpreting. It was also important to identify different types of calques, so as to be able to categorize the calques introduced by the immigration interpreters featured in this study.

Many scholars have attempted to provide a definition of bilingualism and to classify its various forms. Researchers agree that bilingual individuals can be categorized according to several different classification schemes. These vary according to the researcher’s perspective, interest, and focus. For instance, researchers interested in age of acquisition would identify early and late bilinguals.

Table 7-1. Types of bilinguals by classification scheme.

<i>Type of Bilingual</i>	<i>Definition(s)</i>
1. Focus on Age of Acquisition:	
Early bilingual	Acquired L2 in infancy or early childhood
Simultaneous Bilingual	Acquired L1 and L2 simultaneously
Sequential Bilingual	Acquired L2 after L1 was acquired
Late Bilingual	Acquired L2 in adolescence or adulthood
2. Focus on Description of Functional Ability:	
Incipient Bilingual	Beginning to acquire L2
Receptive Bilingual	Can comprehend spoken or written L2
Productive Bilingual	Can speak and/or write in L2
3. Focus on Description of the Relationship between the Bilingual's Two Languages:	
Ambilingual	Is two native speakers in one individual
Equilingual	Has equivalent proficiency in L1 & L2
Balanced bilingual	Same as equilingual
4. Focus on Description of the Context of Acquisition and Its Effects on the Bilingual's Two Language Systems:	
Coordinate bilingual	Definitions vary. Languages acquired in different cultural contexts; language systems separate
Compound bilingual	Definitions vary. Languages acquired in the same Context; language systems merged to some degree
5. Focus on Description of Stages in the Lives of Bilinguals:	
Ascendant bilingual	Bilingual whose functional ability in L2 is growing
Recessive bilingual	Bilingual whose functional ability in L2 or L1 is decreasing
6. Focus on Description of Circumstances Leading to Bilingualism:	
Circumstantial or natural bilingual	Is forced by circumstances to become bilingual; is usually part of a group of individuals who become bilingual
Elective, academic, or elite bilingual	Chooses to become bilingual; elects to take courses on L2

(Valdés & Figueroa, 1994, p.11)

In keeping with the specific focus of this research, the interpreters will be classified according to two of the above categories: age of acquisition (focus 1), and description of the context of acquisition (focus 4). The process of collecting ethnographic data made it possible to find out about the bilingual backgrounds of the interpreters from the perspective of age and context of acquisition. Functional ability (focus 2) is determined by the level of comprehension of the L2 and by the learning process; however, since interpreters' bilingual skills were only observed in a legal setting, determining their general level of functional ability was not possible. I was likewise unable to categorize these interpreters with respect to categories 3, 5, or 6.

Mackey (1968, p.555) states that when assessing an individual's degree or level of bilingualism, one has to consider function, alternation, and interference as variables:

The question of degree of bilingualism concerns proficiency. How well does the bilingual know each of the languages? Function focuses on the uses a bilingual speaker has for the languages, and the different roles they have in the individual's total repertoire. Alternation treats the extent to which the individual alternates between the languages. Interference has to do with the extent to which the individual manages to keep the languages separate, or whether they are fused.

Other variables to consider in assessing an individual's degree of bilingualism are age, sex, intelligence, memory, attitude toward and motivation to use the language (Mackey, 1968). I based my assessment of the degree of bilingualism of each of the immigration interpreters on my observations in court and on my conversations with them about their interpreting experience and about their varying personal and linguistic backgrounds. Interference is the variable I will focus on in this chapter, since interference spawns potentially misleading calques and incorrect literal translations, and interpreters who use them run the risk of failing to maintain legal equivalence.

As explained in Chapter 5, there were nine interpreters observed in this study. Seven of them were coordinate bilinguals, meaning they had learned L1 and L2 in two different places and

two different points in time. The other two interpreters were compound bilinguals, meaning that they had learned both languages in the same environment, as they were growing up. I classified these interpreters according to this category of bilingualism so as to be able to determine whether their level or degree of bilingualism was a variable that affected the quality of their interpreting, especially when it came to using calques and literal translations to resolve semantic problems they encountered.

7.3. LINGUISTIC STRESS IN BILINGUALS

Carmen Silva-Corvalán (1994) observes that bilingual individuals experience linguistic stress when they have the ability to communicate in two different systems. In situations of two languages in contact, linguists agree that there will be changes to each of these languages, motivated as much by social as by linguistic factors. Silva-Corvalán (1994) agrees that language is heterogeneous and variable. Because languages are constantly changing in many different ways, scholars have faced many challenges in their attempts to elaborate a universal theory that can account for the different types of linguistic stress that two languages in contact undergo. Silva-Corvalán (1994) recognizes the following linguistic phenomena as typical of a bilingual situation: *simplification, overgeneralization, transfer, analysis, and convergence*.

7.3.1. Transfer

Of the linguistic phenomena listed above, *transfer* is the one that is most pertinent to this study. Silva-Corvalán (1994) defines transfer as “the incorporation of language features from one language to another, with consequent restructuring of the subsystems involved (Silva-Corvalán, 1994, p.4). Transfer can take place in lexical, morphological, and phonological structures (Silva-

Corvalán, 1994). There are several different types of transfer: a) A form in language Y may be substituted for a form from language X, or a term from language Y may be included in X that did not previously exist in X. b) The meaning of a form R from language F, which may be part of the meaning of a form P in language S, may be incorporated into an already existing form, structurally similar to R, in language system S (cf. Weinreich's "extension or reduction of function" 1974, p.30, as cited in Silva-Corvalán, 1994, p.4).

Silva-Corvalán (1994) calls this second type of transfer *direct transfer*. A typical example of direct transfer is the verb *registrarse* in Spanish, which has come to incorporate the meaning of the word *register* in English. This direct transfer makes the corresponding Castilian word *matricularse* outdated in the Spanish of English-speaking countries, and makes the word *registrarse* sound more appropriate, thanks to the use in English of *register* to refer to signing up for classes in a college or university. The English word *matriculate* means to be admitted into a group, especially a college or university, but it is very formal and not widely used. *Register* has a much broader range of meanings, but with respect to college or university it means to enroll as a student (in general) or to enroll in specific classes (in particular). In bilingual Spanish, the word *registrarse* has been directly substituted for the word *matricularse*. 3) A form in a language X that does not have an equivalent in language F may be lost, as in, for example, the loss of adjective gender marking in some varieties of Los Angeles Spanish. Silva-Corvalán (1994, p.4) calls this third type of transfer *indirect transfer*. Conditions of structural similarity between languages in contact make language transfer more likely to occur.

Weinreich (1974), Otheguy (1993) and other scholars have identified and classified the different types of linguistic transfer that result from languages in contact. These scholars divide and subdivide these linguistic phenomena, creating a taxonomy of the borrowings that occur in

their data. Silva-Corvalán (1994) also presents her own classification of borrowings, based on data she collected in Los Angeles. I have used her taxonomy to categorize the borrowings I observed being introduced into the testimony by the immigration interpreters in this study.

7.3.2. Single-Word Loans; Single-Word Calques; Multiple-Word Calques

Silva-Corvalán (1994) enumerates the following types of borrowings: a) *Single-word loan* refers to the transfer of a form with its corresponding meaning; for instance, the word *mop* transfers to Spanish the meaning of the verb in English *to mop*. b) *Single-word calque* refers to the transfer of meaning into an already existing word. A typical example of a single-word calque is the word *aplicación*, which transfers the meaning of the word *application* in English into an existing word in Spanish, *aplicación*. c) *Multiple-word calque*, according to Silva-Corvalán, refers to the transfer of a form with no alteration of semantic or grammatical features. An example is the borrowing of the use of the slang term *plastic* to refer to a *credit card* in English, resulting in the term *tarjeta de plástico* in Spanish. This term has been translated almost literally from the source language into the target language. *Credit card* is *tarjeta de crédito* in Spanish; nevertheless, the use of *tarjeta de plástico* instead of *tarjeta de crédito* does not alter the grammatical structure or the whole meaning of the sentence in which the calque has been used.

7.3.3. Calques of Bound Collocation

Calques of bound collocation, like idioms and proverbs, do present semantic and grammatical problems in transfer. Examples of idioms in English are *between a rock and a hard place* and *kick the bucket*. A *collocation*, according to Silva-Corvalán, “refers to strings of lexical items which regularly co-occur,” (1994, p.172). In this respect, a collocation is similar to an idiom or a proverb; yet, unlike like idioms and proverbs, a collocation is divisible into semantic constituents. That is, one element of a collocation can be changed without making the entire

string meaningless, whereas an idiom must be conserved as an entire lexical unit. Silva-Corvalán (1994) provides the following examples of calques of bound collocation: The use in bilingual Spanish of *eso está bien conmigo* to translate the English expression *that is fine with me and soy de mente diferente* to mean *I am of a different mind*. Silva-Corvalán argues that a word-for-word calque of an idiom or of a bound collocation is a total violation of the syntactical rules of the target language, and that the calques in these examples would make little sense to a monolingual speaker of Spanish.

7.3.4. Lexico-Syntactic Calques

Those calques known as *lexico-syntactic calques* consist of multiple words that effect a change in the grammar and/or the semantic characteristics of the target language. An example of a lexico-syntactic calque that changes the semantic characteristics of the target language, Spanish, is the use in Spanish of *tener un buen tiempo* to convey the meaning of the English expression *to have a good time* (Silva-Corvalán, 1994). The expressions *buen tiempo* and *mal tiempo* in monolingual Spanish can only be extended semantically to encompass the notions of good or bad weather, and make no sense when used to refer to having a good or a bad time, despite the fact that *tiempo* is a literal translation of time. The corresponding translation of this expression in Spanish should be *pasarla bien*.

7.3.5. Relexification

Relexification is a type of calque in which the reproduction is word for word, creating a new structure that does not exist in the target language (Silva-Corvalán, 1994). An example of this type of calque can be seen with certain uses of prepositions:

[47] Yo nací diez millas afuera de la ciudad de Santa Fe.
Literal translation: I was born ten miles away from the city of Santa Fe.
Correct Spanish: Yo *nací* a diez millas de la ciudad de Santa Fe.

Literal translation: I was born *at* ten miles from the city of Santa Fe. (Silva-Corvalán, 1994, p.184)

This example demonstrates how relexification introduces a new structure into the target language.

7.3.6. Transfer of Subcategorization

Another case involves the *subcategorization* of a verb in the source language that is transferred to a seemingly corresponding structure, such as a preposition, in the target language (Silva-Corvalán, 1994). According to Silva-Corvalán (1994) changes in subcategorization occur when the target language

(a) reproduces the syntactic-semantic relationship of the arguments of the verb in the source language...; (b) leaves the required preposition out when none is required in the source language...; (c) reproduces the preposition that collocates with the source-language verb with a formally and/or semantically similar one in the replica language, whether or not a preposition is required in this language...; or (d) reproduces the valency of a given verb in the source language. (p.180)

According to Silva-Corvalán (1994), an example of the transfer of subcategorization is the use of the preposition *por* in Spanish instead of the preposition *a*, which in Spanish must be used to precede nouns that refer to animate as opposed to inanimate objects. A phrase in English such as *he is looking for her* would be translated into Spanish by some bilinguals as *él está buscando por ella*, whereas it should be translated as *él está buscando a ella*. Silva-Corvalán (1994) points out that *to look for (someone)*, which should be translated as *buscar a (alguien)*, often undergoes the same relexification calquing as the verb *to wait for (someone)*, which should be translated as *esperar a (alguien)*.

My analysis of these examples of transfer of subcategorization differs from that of Silva-Corvalán in several respects, however. I agree that this use of *por* represents a transfer of

subcategorization, because *por* is a translation of *for* in English. But Silva-Corvalán fails to recognize that in this case, *for* is functioning not as a preposition but as a *particle* that is part of the phrasal verb *look for*. *For* is an integral part of this verb. The use of a different particle will change the whole meaning of the verb. *Subcategorization* (which most often has to do with verbs) refers to the particular complements (syntactic structures and thematic roles) that can follow a given verb. Since the use of *for* in English is determined by the verb *look*, we can say that the use of *por* to translate *for* is an example of the transfer of subcategorization. Its use is determined by the verb.

On the other hand, the preposition *a* in Spanish is not an integral part of any particular verb. Instead, its use is determined by the nature of the noun that follows it—it precedes a reference to an animate object. *Está buscando su camisa* does not contain the preposition *a* because *camisa* is an inanimate object, but *está buscando a ella* does, because *ella* is a person. However, this means that deletion of the preposition *a* is not an example of the transfer of subcategorization in these examples, because whether to use the *a* is properly determined by the noun that follows it, not the verb that precedes it in unmarked syntax. Although it may appear that bilingual speakers are simply substituting *por* for *a* in a direct transfer of subcategorization, and though it may be true that these speakers are not in fact be aware of the underlying structure of their calques, Silva-Corvalán's analysis is nevertheless a simplistic one. Although deletion of the preposition *a* does correspond to category (b) in Silva-Corvalán's listing of subcategorization conditions above, it does not actually constitute a case of transfer of subcategorization. According to Silva-Corvalán (1994), the influence of English on the form of Spanish spoken in the United States has changed many verbal structures from [V+NP] to [V+PP]. Again, I disagree with Silva-Corvalán because the *por* in these examples does not function as a preposition. Thus,

in phrases in bilingual Spanish such as *estoy esperando por ella* and *estoy buscando por ella* there has been a reduction of the structure in Spanish (deletion of *a*) as well as the unnecessary addition to the Spanish of the preposition *por*, which is a translation of the particle *for* from the phrasal verbs *wait for* and *look for* in English. This addition is unnecessary because the meaning of the particle *for* is already contained within the Spanish verbs *esperar* and *buscar*.

7.4. ANALYSIS OF THE DATA: CALQUES INCORPORATED IN IMMIGRATION LEXICON

7.4.1. Literal Multiple Calque: *Tarjeta Verde*

In the immigration hearings I observed, the interpreters regularly introduced a number of different types of calques. The calques I have analyzed were extracted from the interpreting work of these nine interpreters. One of the most commonly used calques was *tarjeta verde* for the English noun phrase *green card*. The following excerpts provide examples of the use of *tarjeta verde*:

Excerpt 1 is from Case 9.

1.1 Immigration Judge: So your husband has a green card?

1.2 Interpreter: ¿Su esposo tiene una tarjeta verde?

1.3 Defendant: Eh... solamente la tiene sellada en el pasaporte porque no le ha llegado la tarjeta.

1.4 Interpreter: He only has it stamped in his passport because he did not get the uh the card yet.

Excerpt 2 is from Case 14.

2.1 IJ: The green card?

2.2 Interpreter: ¿La tarjeta verde?

2.3 Witness: Sí, pero no la tengo todavía.

Excerpt 3 is from Case 8.

3.1 Defense attorney: Did you ever have green card status here in the United States?

3.2 Interpreter: ¿Usted tiene estatus con una tarjeta verde?

- 3.3 Defendant: *Sí*.
3.4 Interpreter: Yes.
3.5 Defense attorney: And how did you obtain that?
3.6 Interpreter: *Y ¿cómo la obtuvo?*
3.7 Defendant: *Por matrimonio*.
3.8 Interpreter: Eh, through marriage.

According to the categories outlined by Silva-Corvalán, *tarjeta verde* would be considered a *multiple-word calque*: It has not altered the semantic or grammatical features of the target language. The interpreters in these three different instances have translated the word *green card* in English literally from the source language into the target language. However, the actual meaning of the concept that in English is called *green card* would be in Spanish *tarjeta de residencia* or *tarjeta de estatus de residente*. *Tarjeta verde* literally means card green in Spanish, but for a monolingual speaker of Spanish this has no association with the concept of legal residence.

In Excerpts 1 and 2, the interpreter introduced *tarjeta verde* to the defendant, who did not understand the meaning of this calque. Both the defendant in Line 1.3 and the witness in Line 2.3 substitute the clitic pronoun for the calque itself. What this means is that both the defendant and the witness in these two cases had some previous knowledge of the meaning of *tarjeta verde*. The defendant and the witness have lived in the United States for more than three years, which has given them exposure to the English language and to bilingual communities. Although assessing defendants' bilingual proficiency was not possible, one could argue that the defendant and the witness featured in the excerpts above were bilingual to some degree.

Mendieta (1999) defines lexical loans as the incorporation of a lexical unit from the L1 into an L2 context. This incorporation takes place in accordance with the syntactical rules of the L2 and also features morphological adaptation. Mendieta (1999) also places lexical loans in two

major categories: pure loanwords such as *straight* in *tiene el pelo straight* and loanblends in which there is partial morphological incorporation. An example of the latter, according to Mendieta (1999), is the following: *Se quieren pelear porque como lo tumbó o lo tripeó, le tumbó sus libros y el niño se enojó* (1999, p.15). The loanblend in this case is *tripeó*, in which the English verb *trip* is borrowed and Spanish morphology, i.e., the verb ending, is incorporated into the new word. *Loan translations* or *creations* are syntactic calques that can affect the meaning of the whole sentence when the reproduction is literal, as in, for example, *estoy teniendo un buen tiempo* for *I am having a good time*.

Mendieta (1999) concludes in her study that lexical loans of individual words can occur even when knowledge of the model language is still limited, whereas calques or reproductions represent evidence of a more complex linguistic process. Since calquing requires the adoption of semantic features along with the combination of lexical elements, individuals capable of calquing must have a higher command of the target language in order to be able to reproduce the calques (Mendieta, 1999). The defendants featured in Excerpts 1 and 2 understand and incorporate the above calques both syntactically and semantically. My data lend support to Mendieta's analysis with respect to her assertion that the use of *tarjeta verde* by defendants and witnesses indicates that these speakers have attained a high command of the target language. Even though interpreters have a duty to maintain legal equivalence when interpreting, they are nevertheless susceptible to potentially misleading calques, as much because of as in spite of their high degree of proficiency.

Mendieta (1999) argues that sometimes loans and calques from the target language (in this case, English) get incorporated into the source language (in this case, Spanish) lexicon of a community (in this case, bilingual native Spanish speakers living in the United States) as

synonyms of words in the source language. That is to say that bilinguals use these calques to foster economy of expression in the L1 and not because there is no equivalent expression or word in their native language. It is possible that *tarjeta verde* could be considered a cultural insertion, given the frequency of its use and its accurate portrayal of the intended meaning among those bilinguals who use it. In other words, the integration of *tarjeta verde* into Spanish as spoken in the United States indicates that the question of what constitutes a calque must be resolved not only on the basis of whether it causes a change in meaning or a disruption of syntax, but also on the basis of the cultural adaptation of the speakers who use it. In the case of *tarjeta verde*, the translation problem lies in the figurative meaning of *green card*. The word-for-word translation is correct; the problem for monolingual Spanish speakers is cultural in that they have no way of knowing what the figurative meaning of *green card* is for those living in the United States.

7.4.2. Single-Word Calque: *Aplicación*

Another classic example found in Silva-Corvalán's (1994) data and in mine is the calque *aplicación* in Spanish. *Aplicación* is treated as a single-word calque within the transfer category, in that *aplicación* as used by bilingual Spanish speakers represents the transfer of new meaning into an already existing word. *Aplicación* transfers the meaning of the word application in English into the existing Spanish word *aplicación*. *The Diccionario de la lengua española de la Academia Real Española* (Dictionary of the Royal Spanish Academy) defines *aplicación* as follows:

Del lat. applicatĭo, -ōnis.

1. f. Acción y efecto de aplicar o aplicarse.
2. f. Afición y asiduidad con que se hace algo, especialmente el estudio.
3. f. Ornamentación ejecutada en materia distinta de otra a la cual se sobrepone.
4. f. Inform. Programa preparado para una utilización específica, como el pago de nóminas, formación de un banco de términos léxicos, etc.

5. f. Mat. Operación por la que se hace corresponder a todo elemento de un conjunto un solo elemento de otro conjunto (*Diccionario de la lengua española*, 2002).

The traditional definition of *aplicación* in Spanish does not extend semantically to correspond precisely with the meaning of *application* in English. Therefore, the semantic extension of *aplicación* among bilinguals to encompass all the meanings of *application* represents a cultural incorporation as well. All the meanings listed above except the last one are included in the definition of *application* in English; however, *application* has additional meanings, or senses, that *aplicación* does not have for monolingual Spanish speakers. Here is the definition in the *American Heritage Dictionary* (2000):

Application n. 1. The act of applying. 2. Something applied, such as a cosmetic or curative agent. 3a. The act of putting something to a special use or purpose: an *application of a new method*. b. A specific use to which something is put: the *application of science to industry*. 4. The capacity of being usable; relevance: *Geometry has practical application in aviation and navigation*. 5. Close attention; diligence: *shows application to her work*. 6a. A request, as for assistance, employment, or admission to a school. b. The form or document on which such a request is made. 7. Computer Science A computer program with a user interface. * *adj.* also **applications** *Computer Science* Of or being a computer program designed for a specific task or use: *applications software for a missile guidance system*. [Middle English *applicacion*, from Old French, from Latin *applicātiō*, *applicātiōn-*, from *applicātus*, past participle of *applicāre*, to affix. See APPLY.]. (p.87)

The only definitions in question here are definitions 6a. and b.; they are not part of the definition listed for *aplicación*. The data I collected show ample incorporation of these two senses of application into the calque *aplicación* and its corresponding verb *aplicar*. I observed that this phenomenon is not limited to interpreter speech, but can also be found in that of defendants and witnesses. The following excerpts exemplify such occurrences:

Excerpt 4 is from Case 28.

4.1 Immigration Judge: Why didn't you ask... when did you file your application to get your status as an agricultural worker?

4.2 Interpreter: *¿Cuándo hizo usted su aplicación para que para que le dieran estatus como trabajadora agricultora?*

4.3 Defendant: *Es que yo lo hice, pero eh no me acuerdo bien.*

Excerpt 5 is from Case 11.

5.1 Trial attorney: Now, on page 11 of your affidavit of your asylum application, isn't it true that you described how you thought that asylum was for people who were politically involved?

5.2 Interpreter: *En... en la página 11 de, de su ah:: de su affidavit, de su declaración jurada en la solicitud de de:: asilo, es cierto que usted describe que usted pensaba que la ah la palabra asilo se refería para personas que tenían algo que ver con política?*

5.3 Defendant: *No, yo pase a entender eso después que yo tenía llenado la aplicación.*

5.4 Interpreter: I became uh uh uh, I was able to understand or I became aware, I was able to understand that afterwards, after I filled out the application.

Excerpt 6 is from Case 35.

6.1 Immigration Judge: When you applied for the visa... did you...

6.2 Interpreter: *¿Cuándo usted aplicó para la visa...*

In Excerpt 5, the defendant is the one to introduce the word *aplicación*, even though the interpreter did not use it in his rendition. This indicates that the defendant has some knowledge of the English language. Also, since the defendant has been in this country for two years, he has had the opportunity to be in contact with both Spanish and English. In Excerpt 6, on the other hand, the interpreter is the one who introduces the calque. These examples show that the incorporation of *aplicación* as a synonym for *solicitud* has become natural among Spanish-English bilinguals. However, what about defendants or witnesses who have just arrived from a Spanish-speaking country for the first time? Will they be able to understand the meaning of calques introduced by the interpreters? Additional misleading single-word calques observed in the corpus of the data are as follows:

Registration vs. Registración

Excerpt 7 is from Case 14.

7.1 Trial attorney: *And uh mmm did you also get a voter registration card?*

7.2 Interpreter: *¿También obtuvo una ahhh uhh una registración de para votar?*

7.3 Defendant: *Sí.*

7.4 Interpreter: Yes.

7.5 Immigration Judge: Why did you get a voter registration card?

7.6 Interpreter: *¿Por qué obtuvo una registración para votar?*

7.7 Defendant: *Porque fue requerido en el casino de llenar una aplicación.*

7.8 Interpreter: It was required by the casino when I filled out the application.

In Spanish there are three words that correspond to the English word *registration*. They are *registro*, *inscripción*, and *matrícula*. The *Diccionario de la Real Academia Española* (2005) does not even list the word *registración*, providing further evidence that this word is not a correct translation of *registration*.

Enforce vs. Enforzar

Excerpt 8 is from Case 11.

8.1 Immigration Judge: During the final days of the one-year period that was first enforced...

8.2 Interpreter: *Durante eh los finales del primer año en que se eh se exigió que se enforzó que se hiciera así...*

In Spanish there are several verb phrases that correspond to the English word *enforce*. They are *hacer cumplir*, *poner en vigor*, *obtener por fuerza*, and *imponer a la fuerza*. The *Diccionario de la Real Academia Española* (2005) does not even list the word *enforzar*, providing further evidence that this word is not a correct translation of *enforce*.

Report vs. Reportaje

Excerpt 9 is from Case 33.

9.1 Immigration Judge: That's what the report says, that's what the medical report says.

9.2 Interpreter: *Eso es lo que dice el reportaje.*

9.3 Immigration Judge: What I am asking [is do you know if anything was done with
that]

9.4 Interpreter: *[¿Usted sabe si después ellos hicieron la investigación?]*

9.5 Defendant: (0.4)

In Spanish the word that corresponds to the English word *report* and that would fit this context is *informe*. The *Diccionario de la Real Academia Española* (2005) does list the word *reportaje*; however, this word refers to a newscast or to news reporting: 1. m. Trabajo periodístico,

cinematográfico, etc., de carácter informativo. ~ gráfico. 1. m. Conjunto de fotografías que aparece en un periódico o revista sobre un suceso.

Acts vs. Actos

Excerpt 10 is from Case 29.

10.1 Defendant: ¡Sí!

10.2 Interpreter: [Yes, yes.]

10.3 Defendant: [Sí, definitivamente sí, porque...]

10.4 Interpreter: [Yes, yes, definitely yes, because...]

10.5 Defendant: *Veníamos de un acto...*

10.6 Interpreter: We were coming from an act...

10.7 Defendant: *Que habíamos organizado...*

10.8 Interpreter: That we organized...

10.9 Defendant: *Y encontramos muchos actos después de que terminamos las reuniones por lo tanto...*

Excerpt 11 is from Case 29.

11.1 Interpreter: We found many acts after we finish the meetings...

11.2 Defendant: The meetings, yes.

In English the terms that correspond to the Spanish word *acto* and that would fit this context are event or public function. The *Diccionario de la Real Academia Española* (2005) does not list the word *acto*; however, The *Williams Spanish & English Dictionary* (1963) does list it. The English word *act* makes no sense in this context.

Judgment vs. Juicio

Excerpt 12 is from Case 17.

12.1 Defense attorney: How do you know that?

12.2 Interpreter: *y ¿Cómo lo sabe?*

12.3 Defendant: *¡Me lo dijeron por teléfono! Te hemos sentenciado a muerte en un juicio popular que te hicimos en el monte... y ¡te vamos a matar!*

12.4 Interpreter: They told me, they told me on the telephone, we carried a judgment against you in the mountains, and we are going to kill you.

The meaning of the Spanish word *juicio* would have made sense rendered in English as *judgment* if the particle *out* had been added to the verb *carried*. The English phrase *to carry out a judgment*

would then convey the semantic connotation of the term *juicio popular* in Spanish. However, *carried a judgment* makes no sense.

Attend vs. Atender

Excerpt 13 is from Case 5.

13.1 Interpreter: Uh, in exchange with that we would have would have the sympathy of the people who would come and vote for them...

13.2 District Attorney: Okay, and what was the last school that you attended?

13.3 Interpreter: y ¿Cuál fue el último, la última escuela que usted atendió?

13.4 Defendant: *Centro Colombiano de Estudios Sociales*.

13.5 Interpreter: *Centro Colombiano de Estudios Sociales*.

In Spanish the word that corresponds to the English word *attend* and that would fit this context is *asistir*. The *Diccionario de la Real Academia Española* (2005) does list the word *atender*; however, the meanings it gives are 1. tr. Esperar o aguardar.

2. tr. Acoger favorablemente, o satisfacer un deseo, ruego o mandato. U. t. c. intr. *Atender* means to *assist*, to *pay attention to*, to *attend to* (Williams, 1963, p.65). However, *atender* does not extend semantically to encompass the sense of the word *attend* that is used here, as in *attend school*; it only extends to the sense of attend as in *attend to a patient*. The first definition *The American Heritage Dictionary* (2000) gives for the word *attend* is 1. to be present at: *attended class*.

7.4.3. Calques and Their Effects on Monolingual Defendants

The defendants who appear in immigration court are of several types, as was described in Chapter 3. One type is the arriving alien, a person who is not a citizen or national of the United States and who has just entered the United States. These defendants need a mediated, interpreted hearing, since often they don't speak English, and sometimes they have never even been exposed to it. The following excerpt features an arriving alien who is introduced to some of the calques described above:

Excerpt 14 is from Case 9.

14.1 Immigration Judge: At nine o'clock.

14.2 Interpreter: *A las nueve de la mañana, aquí mismo.*

14.3 Defendant: *Gracias.*

14.4 Interpreter: Thank you.

14.5 Immigration Judge: And you are going to have to have with you whatever application you need to file...

14.6 Interpreter: *Y tiene que traer cualquier aplicación que vas a... vas a presentar aquí.*

14.7 Defendant: *¿Qué es una aplicación?*

14.8 Interpreter: What is an application?

14.9 Immigration Judge: Well...

14.10 Defense Attorney: [I will I will explain.]

In Line 14.5, the interpreter rendered the word *application*, as introduced by the immigration judge, as the Spanish word *aplicación*. In Excerpts 4–6 above, witnesses and defendants were not only able to understand the meaning of *aplicación* in this context, but in some cases even introduced it when it had not been previously introduced by the interpreter. In Line 14.7 the opposite occurred: Being a monolingual Spanish speaker, the defendant was unable to understand this semantic extension of the Spanish word *aplicación* to include this new context, because the Spanish word that should have been used was *solicitud*. The defendant therefore asked what *aplicación* meant. What was not clear to the immigration judge or the defense attorney was that the defendant was not asking the immigration judge what *aplicación* meant in Line 14.7 because he didn't understand the concept of an application—he was asking the interpreter what *aplicación* meant because he didn't understand the interpreter's lexical choice in that context. The defense attorney then took the floor to explain to his client the meaning of the word application because he did not want the defendant to lose face in front of the judge.

Kestler (1992), in his book *Principles of Questioning Strategies*, advises attorneys to make sure they know the judge and the courtroom protocol, because if they are admonished for violating it they will appear inept. He recommends that they listen carefully to the witness's

responses to questions so as to be able to formulate the next question while they are listening to the response. He maintains that attorneys need to listen to what witnesses say and to how they say it, since variations in pace, pitch, intensity, and volume of their speech provide nonverbal clues (Kestler, 1992).

The immigration judge's response suggested that attention had been drawn to the defendant's lack of knowledge of the meaning of *application* in English. It is worth noting that the interpreter faithfully interpreted what the defendant said, and did not violate the ethics of interpreting. Most likely, the interpreter did not expect the defendant to have had little or no exposure to English, nor did he realize that the use of this calque could potentially have damaged the defendant's image and/or raised questions about his own linguistic competence. As part of the immigration hearing protocol, immigration judges are to make sure that each defendant understands the interpreter and that the two parties can comprehend each other. The comprehension check takes place at the beginning of the hearing. The following excerpt serves as an example of this practice:

Excerpt 15 is from Case 36.

15.1 Immigration Judge: Would you like to speak in Spanish or English?

15.2 Defendant: Spanish.

15.3 Immigration Judge: And do you understand our interpreter in Spanish?

15.4 Interpreter: *¿Usted entiende al intérprete en español?*

15.5 Defendant: *Sí*.

15.6 Interpreter: Yes.

At this point defendants have the right to state whether they understand the interpreter or not. Nevertheless, this type of interaction says little to the defendant about the interpreter's linguistic abilities, and equally little to the interpreter about those of the defendant. I was able to see and hear the brief interaction between interpreters and defendants, which typically takes place only minutes before the hearing begins. Interpreters have only this chance to ask defendants off the

record whether they speak English well or not. Interpreters are not permitted to address defendants at their leisure, and therefore have little time to find out about each one's bilingual proficiency. Perhaps interpreters would be more sensitive if they recognized that often they are interpreting for defendants who have never been exposed to English. When interpreters use calques, monolingual defendants may have difficulty comprehending the testimony.

Another example of a misleading single-word calque like *aplicación* is the Spanish word *actualmente* when it is used as a translation of the English word *actually*. In the next excerpt, the defendant repeats the word, thereby indicating that he doesn't recognize its new semantic extension:

Excerpt 16 is from Case 17.

16.1 Immigration Judge: What actually happened that day?

16.2 Interpreter: y ¿*Qué es lo que pasó?*

16.3 Immigration Judge: What actually happened?

16.4 Interpreter: y ¿*Qué pasó actualmente? De verdad, ¿Qué es lo que pasó?*

16.5 Defendant: ¿*Actualmente?*

16.6 Interpreter: *No, no, ¿Qué pasó? En el en el retén ¿Qué es lo que pasó ahí? ¡En verdad!*

16.7 Defendant: *Al estar yo frente a ellos y querían que los acompañara.*

16.8 Interpreter: Once I was uh in front of them they wanted me to to uh go with them.

Line 16.6 shows the interpreter's reaction to the defendant's question. The defendant was most likely confused because the correct translation of *actualmente* is *now*. It seems as if the interpreter recognized that the defendant did not understand the semantic extension of *actualmente* in Spanish to *actually* in English. Therefore, the interpreter paraphrases the question and adds *en verdad* to compensate for the inaccuracy of his initial rendition.

Silva-Corvalán (1994) questions the specific variables that motivate language change when two languages are in contact. She wonders whether transfer is motivated by pressure to make the languages involved more similar in structure or by "lack of formal education in one of the languages" (1994, p.134). She also considers other factors such as "reduced use of one of the

languages and consequent incomplete acquisition of this language” as well as social and cultural pressures of one language on another. She adds the following observation:

It is possible that, given enough time, depth, and favourable socio-political conditions, the changes allowed, which occur gradually, may lead to the development of a language fundamentally different from non-contact standard Spanish. At this stage in history, the evidence favours the hypothesis... that the structure of the languages in contact governs the introduction and diffusion of innovative elements in the linguistic systems; while the sociolinguistic history of the speakers is the primary determinant of the language direction and degree of diffusion of the innovations, as well as of the more distant or remote linguistic outcome of language contact. (Silva-Corvalán, 1994, p.134)

I am in agreement with Silva-Corvalán that the intense contact between two languages produces the introduction and dissemination of transfers, or new elements in the L1 to a point at which these new elements come to seem natural. As shown above in Excerpts 1–6, the transferred item was introduced into the testimony not only by the interpreter but also by defendants and witnesses. However, misunderstandings may arise, as could be seen in Excerpt 14, in which the defendant let the immigration judge know that she did not understand the interpreter’s rendition of the word *application*, probably because she was monolingual. It is also probable that the interpreter was unaware of the defendant’s lack of linguistic ability in English. Even though the interpreter did comply with the interpreting code of ethics in one sense, his rendition could nevertheless have confused the monolingual defendant and could have damaged her image.

7.4.4. Linguistic Self-Awareness on the Part of the Interpreters

These data also show that there are some interpreters who are conscious of the legal repercussions a defendant may face because of faulty interpreting. Interpreters who are aware of how their linguistic performance can affect the lives of others are more cautious when interpreting elements that could be polysemous or have a number of semantic extensions. By avoiding potentially problematic calques and transfers, some interpreters are able to maintain

some degree of legal and linguistic equivalence. The following excerpt illustrates such self-awareness:

Excerpt 17 is from Case 11.

17.1 Trial attorney: Sir, it's true you were here approximately four years before filing your asylum application, is that true?

17.2 Interpreter: *Señor, ¿es cierto que usted ya llevaba cuatro años acá antes de haber llenado la solicitud?*

17.3 Defendant: *Sí.*

17.4 Interpreter: Yes.

17.5 Trial attorney: You are familiar with the asylum application that you filed with your attorney here today, is that right?

17.6 Interpreter: *¿Está usted familiarizado, conoce la solicitud que llenó usted de asilo con la abogada suya aquí?*

This interpreter in particular is very aware of the importance of showing legal equivalence in the target language. After interviewing interpreters and talking with them about their own views on what being a good interpreter entails, I can verify that almost all of them acknowledged the importance of conserving the language level, style, tone, and intent of the speaker. One of the responsibilities of the coordinator of the interpreters is to guide the other interpreters and resolve any linguistic doubts or questions about legal terminology or other lexical items. The coordinator was also aware of the lexical interference of English with Spanish and the possible legal repercussions for the defendant. The coordinator directed my attention to two words in particular: *aplicación* and *tarjeta verde*. According to her, these two words are known to be the most common calques that immigration interpreters use. The coordinator is fully aware that these two terms are problematic literal translations from the source language and she is constantly reminding interpreters to use the correct form of these terms in Spanish. The interpreter in Excerpt 8 explained to me that he has to remind himself constantly to render these two terms correctly in Spanish. Some interpreters also showed linguistic self-awareness in that they would

tell me during the recess at the end of the hearing that they had forgotten to use *solicitud* instead of *aplicación*.

My data also show examples of the transfer to the target language of the subcategorization of verbs in the source language (Silva-Corvalán, 1994). This linguistic phenomenon often occurs when the new element reproduces the syntactic-semantic relationship of the arguments of the verb in the source language. Consider the following excerpts:

Excerpt 18 is from Case 11.

18.1 Immigration Judge: Well then, ah since you thought you had a visitor's visa that was good for ten years...

18.2 Interpreter: *Ya que usted cree que tenía una visa de visitante que era buena por diez años...*

18.3 Immigration Judge: ...why didn't you move away from the Latin people...

18.4 Interpreter: ...*entonces, ¿por qué no se movió lejos de la gente latina...*

18.5 Immigration Judge: ...that you didn't like and they were making jokes about yourself?

18.6 Interpreter: ...*que usted no le caían bien y que se estaban burlando de usted?*

18.7 Defendant: (0.3) *Porque yo no hablaba inglés bien.*

Excerpt 19 is from Case 11.

19.1 Immigration Judge: Ok, so then how did you figure out to see that lady who says she was a lawyer?

19.2 Interpreter: *Entonces, ¿cómo fue que usted figuró, cómo fue que usted decidió que decía que ella era abogada?*

19.3 Defendant: *Porque este Pedro que le digo...*

19.4 Interpreter: Because this Pedro that I had told about...

In Excerpt 18, the interpreter reproduced the preposition *from* that collocates with the source-language phrasal verb *move away* with a formally and semantically similar preposition—*de*—in the target language. However, *move away from* should have been translated as *alejarse + de*. The interpreter gave a literal translation of the English verb *move*, rendering it as *mover*, and the particle *away*, rendering it as the adverb *lejos* in Spanish. This adverb is not required in Spanish because it is already contained semantically in *alejarse + de*. Therefore, *moverse lejos* does not make sense for monolingual speakers, in part because *mover* cannot be extended to encompass all the senses of *move* in English. There are other verbs in Spanish that correspond to the other

senses of the verb *move* in English. However, the defendant's comprehension did not seem to be affected by this interpretation. It is possible that his attention had drifted to the immigration judge's question in Line 18.5 and the interpreter's rendition in Line 18.6.

The same principle applies to the example *figuró* in Excerpt 19.2. The dictionary of the Academia Real (Royal Academy) defines *figurar* as follows:

(Del lat. *figurāre*). 1. tr. Disponer, delinear y formar la figura de algo. 2. tr. Aparentar, fingir. Figuró una retirada. 3. intr. Pertenecer al número de determinadas personas o cosas, aparecer como alguien o algo. 4. intr. Destacar, brillar en alguna actividad. 5. intr. hacer figura. 6. prnl. Imaginarse, fantasear, suponer algo que no se conoce (Diccionario de la Real Academia Española).

Figurar in Spanish is not the semantic equivalent of *figure out* in English. The equivalent of the English expression *figure out* would be *averiguar* or *darse cuenta* in Spanish. Fortunately, the defendant's comprehension did not seem to be affected by the interpreter's use of this calque. Furthermore, the interpreter uses other discursive strategies, probably to compensate for his lack of accuracy. In Line 19.2, the interpreter added "Cómo fue que usted decidió que decía que ella era abogada" probably to compensate, by adding decidió, for the not-so-accurate translation of *figure out* in Spanish. Since the defendant answered the questions without hesitations or questions about the meaning of *figure out*, it seems that the interpreter's calquing went unnoticed. The following excerpts show other problematic syntactic-semantic calques:

Do for a Living vs. Hacer para la Vida

Excerpt 20 is from Case 18.

20.1 Defense attorney: What did you do for a living in Colombia?

20.2 Interpreter: *¿Qué hacía para la vida en Colombia?*

20.3 Defendant: *Yo... eh... mi familia era comerciante en Colombia.*

Excerpt 21 is from Case 18.

21.1 Defense attorney: Uh, besides dealing gold, did you do anything else in Colombia for a living?

21.2 Interpreter: *Además de eso en en en oro, ¿usted hacía otra cosa en Colombia para la vida?*

21.3 Defendant: *Eh... teníamos finca.*

21.4 Interpreter: We had a ranch.

21.5 Defendant: *Sacábamos leche...*

21.6 Interpreter: Uh we we we sold milk...

21.7 Defendant: *...y productos del campo—yucca, plátano.*

21.8 Interpreter: ...and uh uh uh other uh products from the field like cassava, plantain, or bananas.

In Spanish, the phrase that corresponds to the English phrase *do for a living* would be *ganarse la vida*. The interpreter introduced a word-for-word translation, *hacer para la vida*, which is not an expression that has any meaning in Spanish.

Run After You vs. Correr Después de Usted

Excerpt 22 is from Case 17.

22.1 Immigration Judge: Did anyone run after you, as far as you know?

22.2 Interpreter: *¿Alguién corrió después de usted? ¿Lo persiguió?*

22.3 Defendant: *Yo corría lo que pude, porque yo estaba muerto del susto.*

22.4 Interpreter: I ran as fast as I could because I was afraid.

In Spanish, the expression that would correspond to the English phrasal verb *to run after* in this context would be the verb *perseguir*. The interpreter introduced a word-for-word translation, *corrió después de*, which in Spanish means ran after in sequence, rather than *chased*, which is the intended meaning in this context.

To Be Attending vs. Estar Atendiendo

Excerpt 23 is from Case 31.

23.1 Defendant: *Cuando la estaban atendiendo...*

23.2 Interpreter: When she was attended...

23.3 Defendant: *Yo regresé donde mi esposa.*

23.4 Interpreter: I went back to my wife.

Thinking Back vs. Pensando hacia Atrás

Excerpt 24 is from Case 11.

24.1 Immigration Judge: Thinking back about your experiences when you first came here...

24.2 Interpreter: *Entonces pensando hacia atrás de sus experiencias cuando usted vino acá por primera vez...*

24.3 Immigration Judge: did you watch television when you came to the United States?

24.4 Interpreter: *cuando usted vino a los Estados Unidos, ¿usted vio televisión?*

24.5 Defendant: Sí.

In Spanish, the expressions that would correspond to the English phrase thinking back in this context would be *al recordar*, *al acordarse de*, or *al hacer memoria*. However, the interpreter introduced an inaccurate word-for-word translation, *pensando hacia atrás*. In Spanish this expression has no meaning.

To Apply for vs. Aplicar para

Excerpt 25 is from Case 14.

25.1 Trial attorney: Uh, now ma'am, when you applied for the job using the false social security card...

25.2 Interpreter: *Cuando usted aplicó para el trabajo usando seguro social falso...*

The interpreter is not only using a verb that is incorrect for this context, but is also applying the English syntax of the phrasal verb *apply for* to the Spanish syntax of the verb *aplicar*. There is no need for a particle or a preposition with the Spanish equivalent of *apply for*, which is *solicitar*.

7.4.5. Calques and Their Negative Effects on Defendants' Testimony

The excerpts above have not shown that borrowing, calquing, or transferring subcategorization from the source language to the target language has had any major negative effects on the image of the witness or defendant's competence so far. For example, in Excerpt 14, the defense attorney took the floor to explain aplicación and repair the defendant's image. However, there are a number of examples in the data I collected that show that the interpreter's use of misleading borrowings and calques affected not only the comprehension, but also most likely the image and credibility of the defendant. In the following excerpt, the presence of silence reveals a break in the flow of the conversation and a breakdown of comprehension following the interpreter's rendition:

Excerpt 26 is from Case 9.

- 26.1 Defense attorney: Why were you—why did you choose to help these people?
26.2 Interpreter: ¿Por qué opcionó usted por ayudar a esta gente?
26.3 Defendant: (0.3) Solamente quería hacerlo, solamente quería hacerlo.
26.4 Interpreter: I just wanted to do it.

The verb *opcionar* does not appear in the dictionary of the Academia Real. This verb has features of a loan blend (Mendieta, 1999) and of a single-word loan (Silva-Corvalán, 1994). The partial morphological incorporation of the meaning of *to opt* in English into the blend *opcionar* in Spanish was self-motivated on the part of the interpreter, since the defense attorney did not introduce it in the first place. The interpreter chose this form, probably as a synonym for *choose*—the original verb introduced by the defense attorney. Since these hearings are for the sole purpose of determining whether the person in the stand deserves relief in the form of cancellation of removal (i.e., deportation), the interpreter's word choice is extremely important to the defendant's comprehension, and therefore, to the outcome of the hearing.

7.4.6. The Meaning of Silence

One repair mechanism is the use of silence in the conversation. Silences and pauses give speakers the opportunity to organize their thoughts and to continue with the flow of the conversation. However, latencies as brief as 3.0 or 4.0 seconds significantly affect competency ratings (Weimann, 1977; Biglan, Glaser, & Dow, 1980, as cited in McLaughlin, 1984).

In Excerpt 26, Line 26.3, the defendant made use of silence as a repair mechanism. After hearing the calque *opcionó*, which is a non-existent verb in Spanish, the defendant may have preferred to remain silent rather than ask what *opcionó* meant. It is very possible that the defendant was a monolingual speaker of Spanish who did not want to lose face or look incompetent in front of the immigration judge, and therefore did not want to ask the meaning of this verb. However, perceptions of the defendant's competence and his credibility may

nevertheless have been affected by his silence. In other words, the defendant's image was in jeopardy because he seemed less assertive and therefore less credible. Other parties to the case may even have interpreted his silence as a way to buy time to fabricate an answer. Being bilingual in this case would have been beneficial to the defendant's defense, since it would have enabled him to easily relate *opcionó* in Spanish to opt (or option) in English. Instead, the interpreter's introduction of a loan blend may well have damaged the defendant's image and credibility.

7.4.7. Interpreting Bound Collocations

The data show that when interpreting idiomatic expressions or bound collocations, interpreters are presented with new obstacles to linguistic equivalence. The next excerpt exemplifies the difficulties the interpreter experienced in attempting to interpret the English idiomatic expression *to keep to yourself*.

Excerpt 27 is from Case 11.

27.1 Immigration Judge: So you just kind of kept to yourself by choice?

27.2 Interpreter: Entonces, ¿usted se quedó eh por su cuenta solo porque así lo quiso usted?

27.3 Defendant: *No lo comprendí.*

27.4 Interpreter: I don't understand.

27.5 Immigration Judge: Well, are you saying that you wanted to keep to yourself and not talk to anybody by choice?

27.6 Interpreter: ¿Está queriendo usted decir que usted se quedó, se quiso quedar en eh hacia sí mismo porque usted quiso quedarse hacia sí mismo sin hablar con nadie porque usted quiso hacerlo así?

27.7 Defendant: *Sí, porque:::...*

27.8 Interpreter: Yes, because...

The above excerpt shows that the interpreter rendered the immigration judge's expression *kept to yourself* almost word for word. The interpreter did so probably because he could not think of an expression in Spanish that would have been the exact semantic equivalent of the English expression. Cruse (1986) notes that idioms, proverbs, and calques of bound collocation present

semantic and grammatical problems similar to those seen in the above excerpt, because rendering a bound collocation word for word is not likely to result in a semantically equivalent expression. In this excerpt, the expression in question does not have a direct parallel in Spanish. The closest interpretation would have been *quedarse a solas*. The defendant's answer in Line 27.3, "No lo comprendí," indicates that he did not understand the interpreter's rendition, and that most likely the interpreter's rendition does not exist or make any sense in monolingual Spanish and is for this reason incomprehensible to the defendant. The defendant's lack of comprehension made him incapable of answering the immigration judge's question. Consequently, the immigration judge most likely thought the defendant did not understand his own question, not the interpreter's rendition of his question. The defendant in this case was placed at a disadvantage, since his image and his credibility were affected by the interpreter's inability to correctly interpret this bound collocation.

7.4.8. Calquing and Grice's Cooperative Principle in Monolingual Defendants

The effects of calquing on monolingual defendants can also be analyzed from the perspective of the conversational contract. Grice (1967) contributed to the conversational maxims view by articulating the Cooperative Principle (CP). Grice's CP provides the theoretical underpinnings of his conversational maxims. In general, the CP states that every rational human being is interested in conveying messages efficiently when engaged in a conversation. One assumption of the CP is that participants in a conversation will cooperate with each other in order to make the information exchange comprehensible.

When interpreters face linguistic and cultural challenges as language mediators, they risk failing to provide the semantic equivalent of the source language in their L2 rendition, especially when they interpret bound collocations, idiomatic expressions, and calques. Interpreting difficulties

with such linguistic phenomena as these not only obscured the defendant's message, but also introduced additional ambiguity. Those defendants who were monolingual were not able to understand the interpreters when they used inaccurate calques. Even though the conversation in these hearings was restored—by the immigration judge, the interpreter, or the defense attorney—the progress of the interrogation was nevertheless affected. Excerpt 14 serves as a good example of how the interpreter's use of an inaccurate calque can serve to guide or manage the course of the immigration judge's interrogation. When the defendant said he did not understand what *aplicación* meant in the legal context, the immigration judge was about to explain *application* to him. As was mentioned earlier, monolingual defendants are at a disadvantage when, confronted with interpreter-introduced calques, they are unable to understand them. Grice's Maxim of Manner recommends that participants in a conversation avoid ambiguity and also that they be orderly. The interpreter in this case introduced ambiguity in the form of a potentially misleading calque to a monolingual defendant who was inexperienced with its use, shifting the focus of the exchange to an explanation of the meaning of *application*. Introducing such calques to monolingual defendants may cause them to seem unable to comprehend in general, rather than simply unable to comprehend the interpreter in particular, which may have a negative effect on their image.

7.5. MANAGEMENT OF THE TURN-TAKING SYSTEM IN THE COURTROOM

The interpreter in Excerpt 14 not only shifted the focus of the exchange, but also influenced the turn-taking system by changing the order of the interrogation. Wadensjö (1998) explains that interpreter-mediated interactions are globally and locally managed. Every

interaction is managed by artifacts and protocols pertaining to the particular context of the interaction. For instance, doctors and patients at hospitals interact surrounded by props that are particular to the hospital setting. These medical instruments help to establish the focus, tone, and protocol of the interaction, thereby in effect managing these conversations globally. The same would apply if the interaction were to take place at a police station. The police-detainee interaction would be globally managed by a set of instruments different from those of a hospital.

Wadensjö asserts that participants in a conversation can also manage the conversation locally:

Yet, on the other hand, participants in an encounter have a certain potential capacity to initiate a redefinition of the encounter and ultimately re-evaluate ongoing talk; for instance, they can switch from talking seriously to joking or talking ironically, from being supportive to staying indifferent. Like other encounters, interpreter-mediated ones are conditioned by *local* communicative events, occurring on a turn-by-turn level (Wadensjö, 1998, p.154).

Wadensjö (1998) observed a police interrogation interaction that was mediated by an interpreter. She found one instance in her data in which the interpreter's interaction, actions, and words gave a new referent to the pronoun *you*. That is to say that the interpreter changed the distribution of responsibility and re-structured the progression of talk in the interrogation (Wadensjö, 1998).

7.5.1. The Role of Calques in the Turn-Taking System

My data indicate that when interpreters use calques in their target language rendition they often have a similar impact on the progression of the verbal exchange. As indicated above, monolingual defendants either hesitated when they did not understand the interpreter or stated this unequivocally. Thus, the progression of the interrogation was changed because the immigration judge or attorney had to either disregard the question or ask it again in order to clarify the response. In such cases immigration interpreters not only draw attention to themselves, but also avoid taking responsibility for their inaccurate interpretation because

observers often think the defendant has failed to understand the question itself rather than its rendition in Spanish. Defendants, on the other hand, appear to be incompetent when they overtly say “no comprendi” (I didn’t understand). It is not clear how often or under what circumstances immigration judges realize that defendants may not have understood the interpreter rather than the immigration judge’s question. Some judges do take the time to clarify what it was the defendant did not understand, but this is not always the case.

7.5.2. The Interpreter’s Influence on the Turn-Taking System

The turn-taking system found in immigration court interrogations is substantially different from that found in casual conversations (Atkinson & Drew, 1979). In immigration court interrogations, the turns are between two parties: the examiner and the examined. These turns are pre-allocated and organized according to question-answer adjacency pairs in which speaker A predicts what speaker B is going to say by recognizing the types of utterances that are to be used in the conversation. “Speaker change occurs in one direction only and examination is characterized by an A-B-A-B ordering which is not necessarily found in conversation” (Atkinson & Drew, 1979, p.62). Consequently, there is only one speaker asking the questions and another answering them (Atkinson & Drew, 1979). The judge or an attorney asks the questions and the examined party, either the defendant or a witness, answers them. Conversational analysts state that the flow of the conversation has to continue, but they are also aware of possible difficulties speakers may encounter that might interrupt the flow of the conversation and necessitate repair.

Tracy (2002) contrasts the turn-taking system of ordinary conversations with that of courtroom conversations in the following passage:

Turn taking in ordinary conversation is locally managed—there are no prespecified rules. In institutional settings, although local management does occur for some activities—for example, a few people chatting about a project—many occasions have formal turn-taking rules that restrict who may speak, when, and on

what topic. At one extreme are situations in which the turn system is entirely preallocated. A good example would be the courtroom, where the rights to talk are highly restricted. Not only are parties restricted to speaking in particular slots, their turns are format—and content—restricted. Attorneys, for instance, may not make statements to witnesses, but must pose questions, and witnesses must limit what they say to answers to the questions they are asked. (Tracy, 2002, p.119–120)

Because the turn-taking system in courtroom proceedings is fixed and pre-allocated, the defendant is compelled to answer the questions posed by the immigration judge and attorneys. The order of the turn-taking system in this type of setting should then be Q–I–A (question–interpreter–answer). Even though interpreters are aware of their responsibility to conserve the linguistic and semantic characteristics of the source language in the target language, they often obscure the message when they introduce calques, sometimes making it almost impossible for the defendant to understand this message. As shown in Excerpt 14, the defense attorney's intervention changed the order of the courtroom turn-taking system to Q–I–A–E (E stands for explanation from either party, namely the immigration judge or the defense attorney).

My data show many instances in which bilingual defense attorneys had to intervene and interrupt the Q–I–A interaction to help explain what the interpreter meant. My ethnographic observations and conversations with these interpreters following the hearings indicate that interpreters are often not consciously aware of their use of calques when they are actually interpreting. However, it is clear that interpreters do manage the turn-taking system by calquing, whether this is done consciously or unconsciously.

Repair mechanisms are crucial to maintaining the contiguity of adjacency pairs. As can be seen in the excerpts above, defendants have used silence as one repair mechanism, or have simply stated that they do not understand. However, it is not clear how the immigration judge reads this repair mechanism. The immigration judge hears silence on the part of the defendant,

which in turn makes the defendant seem hesitant about the question or about answering. In the excerpts above, the interpreter never mentioned that the defendant most likely did not understand the interpreter's rendition. Therefore, poor interpretation of idioms or the use of misleading calques may mar the defendant's image and credibility, and even affect the outcome of the case.

7.6. CONCLUSION

Scholars such as Morris (1999) agree that interpreters run the risk of sacrificing the meaning of the original message in the process of interpreting. Ivir (1990) maintains that one of the results of the contact phenomenon is “changing as much as necessary” (p.91) in order to fill a gap, whether this gap is cultural or linguistic, by means of strategies such as paraphrasing, defining, and substituting elements of the source language with those of the target language. The use of calques, literal translations, and other related linguistic phenomena is the result of contact between two languages. My analysis shows that interpreters' use of inaccurate calques a) produced confusion on the part of the defendant, b) disrupted the process of the interrogation, c) changed the turn-taking allocation system, and d) may have affected perceptions of the defendant's credibility and personal character. There were nine immigration interpreters analyzed for this part of the research, of whom seven were coordinate bilinguals and two were compound bilinguals. Only one of the interpreters, a compound bilingual, seemed to be able to maintain linguistic equivalence in her interpretation. Both types of bilinguals, coordinate and compound, used potentially problematic calques. What this may mean is that there are pressures beyond bilingual proficiency that lead interpreters to use these calques. Another possibility is that some of the calques used in immigration—such as *tarjeta verde*, *aplicación*, *enforzar*,

aplicar, hacer para la vida—are calques that are used on an everyday basis. It is possible that the habit of using them made interpreters comfortable with them and made it seem normal to incorporate them in their immigration court legal vocabulary.

Both compound and coordinate interpreters, as well as bilingual defendants and witnesses, used *tarjeta verde* and *aplicación*. It may be that the Spanish language is incorporating these terms not because of the lack of an equivalent concept in Spanish, but because of the influence of English and the legal environment in which these interactions take place. The problem arises when interpreters are confronted with monolingual defendants. As can be seen in the transcript analyses presented above, misunderstandings and confusions can easily arise and place the defendant at a disadvantage. Therefore, interpreters need to develop more awareness of the background of the defendants and witnesses for whom they interpret. They also need to be given a formal opportunity to do this. Morris (1999) argues that interpreters are subject to stress and other affective responses that can affect their performance and concentration. Interestingly, I did not observe interpreters acknowledging that their rendition could have led to confusion. It is possible that stress caused by the possibility of losing face and appearing to be linguistically incompetent in front of the judge may have been one of the reasons they did not approach the judge to admit to the inaccuracy of their rendition. On the other hand, interpreters admitted to having developed this type of linguistic awareness due to my presence. One time one of the interpreters told me he had forgotten to interpret *application* as *solicitud* in Spanish. This means that interpreters are becoming conscious of the pitfalls that two languages in contact inevitably create, and also of the effort they need to make to maintain legal equivalence, especially for monolingual defendants and witnesses.

8. THE ROLE OF POLITENESS IN THE IMMIGRATION HEARINGS

8.1. INTRODUCTION

Conley and O'Barr (1998) agree that "language is the primary mechanism" for expressing power relations in any society. Discourse is a connected sequence of speech and a style used to talk about events and interactions. People use discourse to convey what they think as well as to find out what others may be thinking. In other words, "a way of talking about something is also a way of thinking about it" (p.18). One is able to discern the thoughts of others via language and discourse, which reveal the speaker's social and psychological attributes. One of the goals of sociolinguistics is to provide insights into language behavior in context. Much of sociolinguistic research represents an attempt to discover the societal rules and norms that govern different ways of speaking.

Sociolinguists have been concerned not only with how messages are delivered, but also with the impression these messages have on the listener. Many studies, stemming primarily from William Labov's (1966) seminal work, have documented and attempted to account for listeners' subjective reactions on being confronted with a different accent, dialect, pitch, or rate of delivery, as well as with polite or non-polite discourse. Labov's remarkable study on language variation in the speech of New Yorkers demonstrated that social variables such as social and economical status, gender, ethnicity, age, and race all influence both language and its use. Labov's study shows that language variation in speech is directly correlated with social status

and class. Studies in many cultures have shown that the more prestigious a speaker's accent, the more favorably the speaker will be perceived by others on certain dimensions (Giles & Powesland, 1975). In *English with an Accent*, Rosina Lippi-Green (1997) scrutinizes American attitudes toward language by using examples drawn from a variety of contexts: the classroom, the media, and corporate culture. She shows how discrimination based on accent functions to support and perpetuate unequal social structures and unequal power relations. She examines how employers discriminate on the basis of accent. She also looks at how the media and the entertainment industry work to promote linguistic stereotyping.

In *Subjective Reactions to Phonological Variation in Costa Rican Spanish*, Berk-Seligson (1984) found that Costa Rican listeners participating in a subjective-reaction test assigned occupational status to, distanced themselves socially from, and attributed personality and socio-economically related traits to speakers according to the degree of prestige or stigma they attached to each one's speech. Her findings show that Costa Rican listeners can in fact accurately determine which of three speakers speaks a phonologically prestigious social dialect, which one speaks a stigmatized variety, and which one falls in between the two types (Berk-Seligson, 1984).

Researchers in the legal field, such as Conley and O'Barr, have also shown an interest in sociolinguistic research. Questions such as how language variation influences the legal setting and what consequences language variation may have on legal justice have arisen in the field of language and the law since the early 1970's (Conley & O'Barr, 1998). Socio-legal researchers thus recommend joining language variation research with the study of law and society, since these two disciplines have one question in common—how law operates by means of the use of language:

Sociolinguistics can benefit from law and society's focus on who gets what and when, whereas law and society can turn to sociolinguistics for a deeper understanding of how they get it. (Conley & O'Barr, 1998, p.14)

One language variation of interest for this study is speech style, which includes register. An individual's speech style will vary depending upon who is being addressed. A person talking to a friend will adopt a casual register. The same person addressing a judge or a doctor will shift to a more formal register. O'Barr (1982), Berk-Seligson (2001), and other scholars have determined that the style of testimony has an impact on listeners. O'Barr (1982) wanted to test the hypothesis that speech variation in testimony has an influence on legal decision makers. In their ethnographic study on courtroom speech, they identified and contrasted four speech styles often used in the courtroom: a) powerful versus powerless speech style, b) narrative versus fragmented testimony, c) hypercorrection, and d) simultaneous speech. They concluded that testimony rendered in a narrative style is rated more positively than is fragmented testimony, and that "powerful-style testimony is associated with better evaluations than is powerless testimony" (Berk-Seligson, 2002, p.148).

Another characteristic that has been at the center of attention for sociolinguists is the role that politeness plays in speech events. As was detailed in the literature review section of Chapter 1, researchers have focused on such variables as socioeconomic status, age, and gender to study politeness. For example, myriad scholars have examined the subordinate social role of women and the linguistic politeness strategies that result from this imbalance in social power. Therefore, many studies in the field of language and gender have examined how discourse changes in the workplace depending upon the gender of the interlocutors Wodak (1997), Lakoff (1990), and Tannen (1994).

O'Barr (1982), in his experimental subjective-reaction study on the effect of speech styles on jurors, was able to determine that the speech style, level of formality, and the use of powerless speech, polite forms of address, and other forms of politeness influenced the social and psychological images witnesses portrayed to jurors. Berk-Seligson (2001) also shows in her experimental studies of jurors' subjective reactions that jurors react differently and subjectively to different speech styles, registers, verbal politeness, and hedging. She wonders, if a person's own speech style already conveys an image, might not testimony mediated by interpreters have an impact on jurors as well? In her analysis of interpreters' use of polite forms of address, she found that interpreters did add polite forms of address, thereby "initiating a cycle of mutual polite address" (Berk-Seligson, 2001 p.150). Her data show such polite forms of address as sir and ma'am being used by the interpreters in her study. Their use of these polite forms of address also served to establish cordiality and demonstrate adherence to the hearer's cultural norms of politeness (Berk-Seligson, 2001).

Analysis of the role of politeness markers has become a focal point of this research as well. Like the interpreters in Berk-Seligson's study, the immigration interpreters featured in this study used polite forms of address even when immigration judges, attorneys, and defendants did not use them. These immigration interpreters regularly shifted to a higher register the forms of address the immigration judges and attorneys used in addressing witnesses. I also observed that immigration interpreters preferred to address women more formally or politely than did immigration judges, attorneys, and defendants. Interpreters used polite markers such as *señora* or *señorita* even when the immigration judge or attorneys did not. I would argue that the main reasons for this practice are to show solidarity with the witness and to convey cordiality and adherence to cultural norms.

8.2. POLITENESS: DEFINITIONS AND STUDIES

Politeness, as a technical term in linguistic pragmatics, refers to “ways in which linguistic action is carried out—more specifically, ways in which the *relational function* [italics added] in linguistic action is expressed” (Asher, 1994, p.3206). Márquez Reiter (2000) states that politeness refers to society, directly or indirectly. She agrees with the idea that the act of behaving politely “is performed by an individual agent”; however, such an act is socially determined and “is geared towards the structuring of social interaction” (Márquez Reiter, 2000, p.2):

In order for an act to be regarded as “polite” it has to be set upon a standard, a standard which lies beyond the act itself, but which is recognized by both the actor and hearer or a third party who might be part of the interaction. This standard is based on collective values or norms which have been acquired by individual agents, usually early in their lives as part of a socialization process. Those norms or collective values, such as the deference shown to elderly people, the physical distance we maintain from other people in order to feel comfortable, etc. have been ‘programmed’ early in our lives and thus determine the individual’s subjective definition of rationality (Hofstede 1984: 18), a definition of rationality which may or may not be shared by different societies. (Márquez Reiter, 2000, p.2–3).

Politeness, then, is an action constituted by a relationship, with shared standards, within a social group that is developed and reproduced by individuals of a specific society (Márquez Reiter, 2000). Politeness is a form of social interaction; therefore, politeness functions as a mediator between the individual and the society, according to Márquez Reiter. One chooses to be polite or impolite, and also has the task of choosing the instruments through which such an act can be carried out. Being polite or not has its basis in collective norms, whereby the “motivation in performing the act is that of structuring social interaction” (Márquez Reiter, 2000, p.3).

Politeness is, then, another social linguistic variable that can be used to evaluate how a given person's speech adheres, or not, to the norms of the specific society of the speaker.

Goffman's (1967) notion of *face wants* inspired Brown and Levinson's (1987) elaboration of *positive and negative face*, and laid the foundation for future studies.

8.3. POWER AND POWERLESS SPEECH

Conley and O'Barr (1998) state that when one talks about power, one deals with inequality. *Power* is seen as a preponderant influence or authority over others. In the legal setting, power also encompasses this notion of inequality:

Throughout history, the power of the law has been a two-edged sword, simultaneously enabling some people to attack social inequalities and enabling others to defend them. (Conley & O'Barr, 1998, p.8)

Conley and O'Barr (1998) analyzed the linguistic mechanisms of a rape case in order to understand how power is established, and how discourse mirrors social hierarchies. They observed that linguistic power re-victimized the victims. These authors acknowledge the basic mechanisms of "cross-examination that, in this extraordinary context, simultaneously reflect and reaffirm men's power over women. The basic linguistic strategies of cross-examination are methods of domination and control. When used against the background of the rape victim's experience, they can bring about a subtle yet powerful reenactment of that experience" (p.37).

Once the importance and the influence of linguistic power in the legal setting have been established, it is necessary to outline what comprises powerless speech. The notion of powerless speech is better understood with reference to the speech/talk of males vs. female. As mentioned

in the literary review, myriad scholars have studied gender as a social variable in the context of linguistic politeness.

Lakoff (1973) confirms that women talk differently from men. She contributed to the literature of language, gender, and power with a model of women's way of talking. Lakoff's outline of women's speech patterns is as follows:

1. HEDGES: *It's sort of hot in here; I'd kind of like to go; I guess; It seems like;* and so on.
2. (SUPER) POLITE FORMS: *I'd really appreciate it if; Would you please open the door, if you don't mind?*; and so on.
3. TAG QUESTIONS: *John is here, isn't he?* instead of *Is John here?* and so on.
4. SPEAKING IN ITALICS: Intonational emphasis equivalent to underlining words in written language; emphatic *so* or *very*; and the like.
5. EMPTY ADJECTIVES: *Divine, charming, cute, sweet, adorable, lovely,* and others like them.
6. HYPERCORRECT GRAMMAR AND PRONUNCIATION: Bookish grammar and more formal enunciation.
7. LACK OF A SENSE OF HUMOR: Women said to be poor joke tellers and frequently to "miss the point" in jokes told by men.
8. DIRECT QUOTATIONS: Use of direct quotations rather than paraphrases.
9. SPECIAL LEXICON: In domains like colors where words like *magenta, chartreuse,* and so on are typically used only by women.
10. QUESTION INTONATION IN DECLARATIVE CONTEXTS: For example, in response to the question *When will dinner be ready?*, an answer like *Around 6 o'clock?*, as though seeking approval and asking whether that time will be okay. (Lakoff, 1973, as cited in Conley & O'Barr, 1982, p.64)

Lakoff's outline of patterns of powerless speech serves as a baseline to identify powerless linguistic features. When a person sounds powerless by virtue of using the powerless linguistic features listed above, that person sounds less convincing, less trustworthy, less competent, and less assertive. Conley and O'Barr's (1982) experiment with mock jurors revealed that the speech styles females used did influence the impression they made on jurors. These researchers observed that jurors found women who used a powerful speech style in their testimony to be

more convincing and trustworthy than those who used what was termed powerless speech (Conley & O'Barr, 1982).

8.4. LEGAL SPEECH STYLE AND CROSS-EXAMINATION STYLES

In legal settings, such as trials, persuasion depends heavily on the spoken word. This ability to persuade will affect perceptions not only of the personal character of the speakers but also of the credibility of their verbal presentations, the quality of the evidence, and the credibility of the witnesses themselves. As was mentioned in the literary review, forensic rhetoric techniques are used to convince a decision-maker that events in the past occurred in a particular way (Davies, 1993). Lawyers and judges thus become experts in the art of persuasion. The art of persuading a jury—or the immigration judge, in the case of immigration hearings—relies on good examination and cross-examination strategies. The defense attorney must first elicit favorable testimony, which involves getting the defendant and/or witness to agree with those facts that support the defendant's case. The prosecuting attorney—or the government attorney, in the case of immigration hearings—must conduct a destructive cross-examination. This involves asking the kinds of questions that will discredit the testimony of the defendant and/or witness so that the jury—or the judge—will minimize or ignore it (Mauet, 1996).

Scholars such as Gibson (1992), Kestler (1992), Gudjonsson (1993), and O'Barr (1982) have attempted to describe the stylistic variations in speech that occur in courtroom hearings. These scholars agree that style, lexical choice, question type (open/closed, identification/selection, yes/no), and the wording of questions all have a profound impact on the response.

8.5. SPEECH STYLE VARIETY AND LANGUAGE VARIATION

Dueñas González et al. (1991) explain that language variation and complexity are inherent in legal language. Language variation is of great importance to interpreters, since they are required to maintain the legal equivalence of the interpretation from the source language to the target language. These scholars remind interpreters that register—the variety of language used according to the setting and purpose of the communication and relationship of the speakers—is an important component of legal language, and one that interpreters need to respect (Dueñas González et al., 1991).

O’Barr (1982) identified four legal speech styles present in trials. They are a) formal spoken legal language, b) formal Standard English, c) colloquial English, and d) subcultural varieties. Formal spoken language refers to legalese. O’Barr identifies this variety of language as the most common in the courtroom. This variety is mostly used by judges to instruct jurors, pass judgment, and speak on the record. This variety is also considered to be hypercorrect or “bookish.” Formal Standard English is the language variety most commonly used by lawyers and witnesses. It is also called correct English, and it resembles the language variety spoken by English teachers. Colloquial English refers to casual English. This variety is not preferred among lawyers, but it is used by some witnesses. O’Barr states that some lawyers may choose to use this variety of language in addressing witnesses. The main features of this type of speech are ellipses, contractions, and simple syntax and vocabulary. Subcultural varieties have their own distinctive characteristics, linguistically speaking. Black Vernacular English is considered by some to be a subcultural register (O’Barr, 1982).

O’Barr (1982) recognized that many varieties of speech style are used by both attorneys and witnesses. Furthermore, he demonstrates that this shifting from one form to another, whether

done consciously or not, reflects either powerful or powerless speech. O'Barr notes in particular the manipulation of speech varieties and registers on the part of lawyers, which represents powerful speech. He observed that lawyers would sometimes address prospective jurors in a more colloquial way, so as to establish solidarity with them. On the other hand, lawyers would distance themselves from a hostile witness by "for example, attempting to make colloquial or cultural varieties appear stupid, or by suggesting that expert witnesses [were] using elevated speech to obscure simple matters" (Dueñas González et al., 1991, p.265). Thus, jurors and judges develop a favorable or unfavorable impression depending upon how lawyers, witnesses, and defendants present themselves through their testimony:

O'Barr et al. (1976) described an instance where a defense lawyer carefully questioned a young man giving testimony in Black English. This man's testimony was critical for the lawyer's argument, and after each utterance the defense lawyer carefully restated in Standard English what was said in Black English. The authors of the study add that it is not possible to know whether this was consciously or unconsciously motivated. With another witness whose testimony was unfavorable to his case the same lawyer was observed restating that witness's utterances in a casual, less correct form. (Dueñas González et al., 1991, p.265)

These anecdotes demonstrate how one's credibility, competence, and trustworthiness are evaluated based on one's use of language in a given situation. In courtroom hearings, skilled attorneys may significantly influence these evaluations of both witnesses and defendants by shifting speech styles as they react to and restate the testimony. Interpreters have an ethical responsibility to conserve the registers and speech styles of the speakers. And yet, if attorneys shift register, sometimes consciously and at other times unconsciously, one wonders whether interpreters might not also make similar shifts, consciously or not, to render an utterance in a register that is different from the one the speaker used. The problem with this practice is that it prevents jurors and judges from forming a true image of the character of defendants and

witnesses in a hearing that is mediated by an interpreter. The same applies to defendants and witnesses, who may not be able to form a true image of the judge and the attorneys who are parties to their case if interpreters do not respect the illocutionary force of these same judges and attorneys.

The definition of register¹⁵ has been approached by different scholars and from different viewpoints. According to Joos (1967), there are three parameters that need to be taken into account in order to be able to understand and define register. The first parameter is the field of discourse, which is the speaker's purpose or intention, and which could be, for example, persuasion, discussion, or reporting. Second, the manner of discourse is the parameter that explains the relations among the participants in the speech act. These relations are described according to the five styles Joos (1967) sets forth: frozen, formal, consultative, casual, and intimate¹⁶. Finally, the third parameter is the mode of discourse, which is "the medium of communication, primarily a distinction made between spoken and written language" (Dueñas González et al., 1991, p.266). In other words, when talking about register one has to first understand the purpose of the speaker, the type of relationship the speaker wants to establish with the hearer, and the mode used to convey the message, whether it is spoken or written.

¹⁵ Bolinger (1975) defined register as follows: a variety that is not typically identified with any particular speech community but is tied to the communicative occasion (p.358).

¹⁶ (a) Frozen: The judge uses a frozen style of language, for example, when citing legal codes and procedural regulations in the instructions to the jury.

(b) Formal: Attorneys generally speak in a formal style when they address witnesses, the jury, and the judge. The language reflects this formality and permanency in matters of court etiquette, such as "You may approach the bench," and "The witness may step down."

(c) Consultative: Often attorneys use the consultative, or informative, style to explain a legal definition within an opening or closing statement, or to offer an explication of an object or issue relevant to the case.

(d) Casual Speech: Witnesses generally speak in a casual or colloquial style. It is usually the language of insiders, in which there is presumed to be a significant amount of shared information.

(e) Intimate: The speech of some witnesses may be so non-referential (having ambiguous references and unclear antecedents because it has no formal subjects) as to render it almost incomprehensible, for it is usually the kind of speech reserved for conversation between pairs (Joos, 1967, as cited in Dueñas González et al., 1991, p.267).

Gleason (1965) has also classified speech styles following Joos's classification. He calls these the five keys (instead of Joos's five clocks). Gleason also recognizes that speech styles are a function of social situations, and that each style has its own social and linguistic peculiarities (Gleason, 1965). He also highlights consultative, casual, and deliberative (or formal) styles as those most central to the American language curriculum. In the legal realm, speech style varies depending upon the speaker. According to Dueñas Gonzalez (1991), judges and attorneys normally use a formal register; however, they also make use of an intimate (Joos, 1967) speech style when using jargon, or slang, whenever they want to sound more colloquial or intimate. Dueñas González (1991) also points out that judges use a variety of speech styles and registers when addressing attorneys, juries, and witnesses.

8.6. ANALYSIS OF THE DATA: INTERPRETERS' USE OF POLITENESS IN THE HEARINGS

Berk-Seligson (2002) showed that not only did interpreters incorporate polite forms of address into the testimony they were interpreting, but by so doing they also initiated a cycle of mutual polite address. She found that interpreters often used a higher register than had been used originally in the source language. Therefore, interpreters sounded more formal and more polite, or *hyperformal*, in their speech style. In the data for this study, the same sociolinguistic phenomenon was observed. On many occasions, immigration interpreters used politeness markers even when there were none used in the original utterance. Although it is not possible to determine definitively, on the basis of the data gathered for this study, precisely why this was done, I would argue that the immigration interpreters analyzed in this study most likely chose to add politeness markers such as *señora* or *señorita* to conform to the societal rules of politeness

prevalent in Hispanic culture, to avoid sounding powerless, to convey solidarity and cordiality, and to avoid face threatening acts (FTA). Additional research, using attitudinal surveys, may demonstrate definitively that these are the reasons for this behavior.

8.6.1. Adding Polite Forms of Address to Convey Solidarity

Immigration interpreters systematically added polite forms of address when immigration judges or attorneys failed to do so. The following texts show how interpreters incorporated these polite forms of address into the target language:

Excerpt 1 is from Case 14.

1.1 Immigration Judge: To the respondent, through the interpreter—please, state your name.

1.2 Interpreter: *Señorita, díganos por favor, usted puede dar, usted... su nombre.*

1.3 Defendant: *Laura Azucena Ramírez.*

Excerpt 2 is from Case 14.

2.1 IJ: To the respondent: What is your full, true, and correct name?

2.2 Interpreter: *¿Cuál es su nombre completo y verdadero, señora?*

2.3 Defendant: *Rosa María.*

Excerpt 3 is from Case 12.

3.1 Immigration Judge: In these proceedings you may be represented by an attorney of your own choice, but at not expense of the government. Do you understand?

3.2 Interpreter: *Señor, usted tiene derecho a ser representado por un abogado, pero el gobierno no le puede conseguir abogado; lo tiene que conseguir usted y costearlo usted, ¿entendió?*

3.3 Defendant: *Sí.*

3.4 Interpreter: Yes.

Excerpt 4 is from Case 12.

4.1 Immigration Judge: ...You have to return here on Friday, that is, August 1st, 2003, at one o'clock in the afternoon, in the same courtroom. If you fail to appear here on that day and time you could be ordered to be deported or removed from the United States in your absence, do you understand?

4.2 Interpreter: *Señor Martínez, entonces le va a tocar volver aquí este viernes, agosto primero, a la una de la tarde, en esta misma sala; si usted no viene ese día, yo podría tener la audiencia sin usted y ordenar que lo deporten, entiende?*

4.3 Defendant: *Sí.*

4.4 Interpreter: Yes.

Excerpt 5 is from Case 12.

5.1 IJ: Ok, and I am giving you the date, time, and place of your next hearing in writing, so you don't forget that is August 1st, 2003, at one o'clock in the afternoon, in the same courtroom. I am

providing you with another paper which advises you if you do fail to appear on August 1st, 2003, in this courtroom and for 10 years after that date you will be ineligible to receive voluntary departure, cancellation of removal, and adjustment of status to legal residence, do you understand?

5.2 Interpreter: *Bueno, Señor O. Entonces le voy a dar un papel aquí que va a recordarle la fecha, la hora, y el lugar de la próxima audiencia que es otra vez viernes, agosto primero del 2003 a la una de la tarde. También le voy a dar un papel que le va a decir que si usted no viene usted va a tener consecuencias hasta por diez años. Usted no va a poder pedir ningún beneficio como son la salida voluntaria, cancelación de expulsión, y el ajuste a residente permanente.*

Excerpt 6 is from Case 14.

6.1 Trial attorney: Did you pay for the whole thing, or did your employer pay for a portion and you paid for the other portion?

6.2 Interpreter: *Señora, si sabe, ¿lo pagaba usted todo o todo el seguro, o solo la porción del seguro?*

6.3 Defendant: *El seguro paga... el seguro pagaba cierto porcentaje y uno paga lo demás.*

The excerpts above are taken from preliminary hearings. These hearings are conducted for the purpose of ascertaining the facts and the avenue of relief the defendant is seeking, and setting a date for the full hearing. Therefore, the judge's style of language is frozen, especially when he is citing codes and procedural regulations in the instructions to the defendants. In preliminary hearings, participants are expected to use a formal style of speech, reflecting court etiquette, when addressing defendants, attorneys, and judges. Since the purpose of these preliminary hearings is to identify the accused party, to establish background information, and to set the date for the final hearing, the immigration judge normally asks only closed questions, that is, questions that can be answered in just a few words. Immigration judges make use of identification and selection questions to require the identification of a person, place, group, or time; for example: *What time did you see Mr. X come in?* Selection questions are closed-alternative questions in which questions can be answered satisfactorily with only "yes" or "no."

Due in part to the formal speech registers used by immigration judges and attorneys, preliminary hearings are often intimidating and threatening for defendants, especially in their first appearance in immigration court. In Excerpts 1 through 3, the immigration judges require

the identification of the defendants; therefore, they request that these defendants state their names. In immigration hearings, immigration judges play the role of the referee, or adjudicator, and also that of cross-examiner. They also use legalese and the same linguistic techniques attorneys use when they cross-examine defendants. One of the major distinctive features of such language is the use of impersonal constructions such as nominalizations and the use of the third person singular (Tiersma, 1999). The immigration judges in the first three excerpts addressed the defendants using nominalizations. Addressing the defendants in the third person singular, i.e., 1.1 IJ: “To the respondent, through the interpreter—please, state your name” allows the judges to be more impersonal and lets them establish social distance. In Excerpts 1 and 3, the interpreters interpreted the judge’s nominalization using polite forms of address such as *señorita*, *señora*, and *señor*, instead of mirroring the immigration judges’ illocutionary force and accurately conveying the social distance and intimidation in their speech style.

8.6.2. Adding Polite Forms of Address for Purposes of Mitigation

One could argue that these interpreters were being deferent or polite, in keeping with the politeness norms of Hispanic culture. Furthermore, deference in the Spanish language is embedded in the grammar. However, I would argue that culture and grammatically encoded deference structures are not the sole reasons why these interpreters chose to be polite or deferent. The concept of deference¹⁷ plays a very important role in the above excerpts. According to Thomas (1999), showing deference, because it is not reciprocal, is the opposite of being polite. Deference is a way of showing consideration for others. Even though she agrees that politeness and deference are both manifested in social behavior, she nevertheless points out, with reference to linguistic sources, that deference is imbedded in the grammar of many languages, such as

¹⁷ Deference is the “respect we show to other people by virtue of their higher status, greater age, etc.” (Thomas, 1999, p.150)

Korean and Japanese. In some Spanish dialects, such as the Costa Rican one, for example, the speaker can choose whether to use *tú*, *usted*, or *vos*. Using these forms will signal “either respect or familiarity toward [one’s] interlocutor” (p.151). The English language lacks this form of grammatically encoded deference.

Fraser and Nolan (1981) explain that speakers occupy a specific status in relation to particular hearers and vice versa, and that illocutionary acts will be negotiated and determined on the basis of the relative status of the parties involved in the conversation as well. If a person violates the rules of the conversational contract, this person is therefore considered impolite. Furthermore, showing deference is a means of acknowledging the status of the hearer. This act creates a “relative symbolic distance” (p.97) between the parties involved. I suspect that the interpreters in these cases have added these polite forms of address not only to convey politeness and deference for their own sake but also to show solidarity with the defendant. My observations seem to indicate that some interpreters may be adding these polite forms of address both consciously and voluntarily in order to mitigate not only the formal speech styles of the parties to the hearings but also the intimidating and threatening setting established by the speech event itself, particularly in preliminary hearings. Researchers in the area of politeness and deference have established that these practices may well be culturally bound. These observations present an opportunity for further research to determine, using research methods such as attitudinal surveys and other quantitative measures, whether immigration interpreters add these polite forms of address for the reasons suggested above.

8.6.3. The Interpreter’s Self-Incorporation into the Fact-Finding Committee

Deference, in the Spanish language, is grammatically encoded. An example of encoded deference is the verb in the second person singular formal form, *usted*. One could omit the

pronoun *usted* and still show some degree of deference: “State your name” is equivalent to “*Diga su nombre*.” A speaker could add the *usted* pronoun by choice so as to sound a bit more deferent: “*Diga usted su nombre*.” In Excerpt 2, deference is already established by the possessive pronoun *su*, which is the possessive adjective for the formal form of address, and which is translated as *your* in English. However, the interpreter adds *señora* at the end to sound even more polite. The same occurs in Excerpt 3, in which the interpreter addresses the defendant using the formal pronouns and in addition uses the polite form of address, *señor*. Excerpt 1 displays a slightly different and interesting linguistic strategy: the interpreter addresses the defendant using a first person plural pronoun, thereby inserting himself into the hearing process. By saying, “*Díganos... su nombre*” (Tell us your name), in Line 1.2, the interpreter claims common ground with the judge. The interpreter, then, is no longer the linguistic mediator but another member of the fact-finding committee. The question that arises here is the following: How does the defendant understand the interpreter’s rendition? If defendants view the interpreter as the closest representation of home, and if they feel they are answering not only the judge’s questions but also the interpreter’s, they are likely to feel less intimidated and more comfortable with answering questions. On the other hand, defendants might feel like both judge and interpreter are against them. The interpreter then establishes a direct relationship with the defendant and makes the defendant feel at ease by using polite forms of address.

8.6.4. Interpreter’s Use of Negative Politeness to Conform to the Defendant’s Societal Norms and to Enhance the Image of the Parties Involved

Lakoff (1973) explains that politeness can be used as a device to reduce friction in personal interaction, and lists it as one of the rules of conversational competence (be clear, be polite, don’t impose, give options, and make the other person feel good). Leech (1983) makes a distinction between a speaker’s illocutionary goal (what he/she intends to convey) and the

speaker's social goal (the position the speaker is taking on being truthful, polite, or ironic). The interpreters in Excerpts 1 through 6 are being polite because they want to minimize the severe tone the immigration judge is using in his requests for information. In other words, the interpreters want to change the judge's illocutionary goal because they want to change his social goal—in this case, to make the judge sound more polite. I would argue that interpreter's awareness of the intimidating setting and the formal speech style of the speakers makes them use polite forms of address to show solidarity and sympathy with the defendant. Brown and Levinson (1978) distinguish two types of politeness: positive politeness and negative politeness. Positive politeness encompasses a more direct, familiar, and joking behavior. Negative politeness, on the other hand comprises *rituals of avoidance*:

Where positive politeness is free-ranging, negative politeness is specific and focused; it performs the function of minimizing the particular imposition that the FTA unavoidably effects. (Brown & Levinson, 1978, p.134)

Indirectness, being conventionally polite, avoiding confrontations, and being deferential are examples of negative politeness. The interrogation strategies of the judges make them sound powerful and assertive. The opposite applies to an individual who is using negative politeness strategies. This person's speech style would then, one might deduce, convey a less powerful and less assertive, convincing, and competent image. On the basis of these definitions, one could argue that interpreters, in adding these polite forms of address, are using a negative politeness strategy and a form of powerless speech. One question that may arise here is the following: How do interpreters sound to defendants and witnesses who share the interpreter's social and cultural norms of politeness? Interpreters have identified the formality of the speech event and the tension it creates; therefore, they help to ease the tension by using *señora*, *señorita*, or *señor*, which sound less imposing and more cordial. I would argue that interpreters consciously add

these politeness markers to respect the rules of the conversational contract in the Hispanic culture. One must use an honorific to address someone who is traditionally accorded respect in the Hispanic culture; omitting the honorific is considered impolite. Thus interpreters, through their use of negative politeness strategies, accord defendants and witness a higher status than do immigration judges.

Immigration judges establish unequal power relations and social distance with other members of the hearing process through powerful speech, lack of deference, and nominalization devices. Brown and Levinson (1978) view power as a value attached not to individuals at all, but to roles or role-sets. Immigration judges adopt a powerful speech style as part of their role as adjudicators and fact finders. The immigration judges' speech acts in the above excerpts are *directives*, which are utterances such as ordering and requesting or directing the addressee to perform or not to perform an act (Searle, 1969). The *direction to fit* is the function or purpose a speech act must fulfill in order to make the words fit the world, or to make the world fit the words. In the case of directives, these utterances make the world fit the words. The hearer is able to recognize the speaker's intent "in virtue of the hearer's knowledge of the rules that govern the utterance of the sentence" (Searle, 1975, p.59).

The defendants and witnesses do not recognize the pragmatic intent of the judge's utterances, thanks to the interpreter's mediated rendition. The interpreter is the one who recognizes the socio-cultural differences between Anglo-Saxon and Hispanic cultural norms. The interpreter is the one who changes the *direction to fit*, making the words fit the defendant's world by using polite forms of address. The content of the immigration judge's speech is now filtered through the interpreter's polite forms of address, which make the defendant perceive a different social reality: now the judge is being respectful of the defendant.

As explained above, the interpreter changes the judge's direct and powerful speech style to a less powerful one through the incorporation of polite forms of address. Another question is the following: What image, based on the interpreter's speech style, does the defendant have of the judge? It may be that the interrogation strategies of judges do not have a positive impact on Hispanic hearers, who are not likely to share the judge's social norms and culture, and who may not respond well to the intimidating nature of the immigration hearing. Fraser (1990) states that politeness is a function of a particular set of social norms, consisting of more or less explicit rules that prescribe a certain behavior, a state of affairs, or a way of thinking in a given context. Thus, according to Fraser, politeness mirrors the historical understanding of each society. That is to say that a positive evaluation of politeness occurs when an action is in accordance with the societal norm and vice versa. This social normative view of politeness is also linked to the idea that the higher the degree of formality, the greater the degree of politeness, which is the case in many Hispanic cultures, especially in Central and South America. Therefore, being direct may be seen in some Hispanic cultures as being rude. That is to say, the more direct the judge is in addressing a given Hispanic defendant, the less polite and respectful this defendant will perceive the judge to be.

By using negative politeness, the interpreter makes the judge's directives fit with the defendant's societal norm. Interpreters are also respecting Leech's (1983) maxim of sympathy, which is one of the maxims of the politeness principle: "Minimize antipathy between yourself and others; maximize sympathy between yourself and others" (as cited in Fraser, 1990, p.225). Thus, interpreters' incorporation of negative politeness builds a new image of the judge. The following table exemplifies the effect of the judge's intimidating directness and the interpreter's negative politeness on the defendant.

Table 8-1. Perceived politeness of judges' directives with and without interpreter mediation.

	Direct Relationship		Interpreter Mediated Relationship		
	Immigration Judge	Defendant	Immigration Judge	Interpreter	Defendant
Speech style	Direct, formal		Direct, formal	Indirect, negative politeness	
Effect on the hearer		Impolite			Polite

The direction to fit of directives is to make the world fit the words, according to Searle (1969). Directives and commands may be intimidating and threatening, depending upon the speaker's authoritarian role, the tone of voice, and the speech event. A command such as "Throw me the ball" will be less threatening if it takes place at a football game. A command such as "Tell the truth" will be more threatening if it takes place at a court hearing and is issued from the judge to the defendant. The interpreter's negative politeness conveys an illocutionary act that is different from the one originally intended by the judge.

In Excerpt 1.2, the interpreter addresses the defendant by adding not only the polite form of address *señorita*, but also by using an indirect speech request:

Excerpt 1 is from Case 14.

1.1 IJ: To the respondent, through the interpreter—please, state your name.

1.2 Interpreter: *Señorita, díganos por favor, usted puede dar, usted... su nombre.*

1.3 Defendant: *Laura Azucena Ramírez.*

Neither *señorita* (Miss) nor *usted puede dar* (you could state) was introduced by the immigration judge in the first place. The literature review recalls Yule's (1996) definition of indirect speech acts: An indirect speech act takes place "whenever there is an indirect relationship between a structure and a function" (Yule, 1996, p.55). Thus, a declarative sentence

constitutes a direct speech act, but may also be used indirectly, or pragmatically, to make a request. Searle (1975) points out that there is a difference between the meaning of an utterance and its use in such forms as “*can you, could you, I want you to*, and numerous other forms [that] are conventional ways of making requests” (Searle, 1975, p.76). The point of his argument is that these forms do not have a true imperative meaning because they seem to be giving the hearer a choice of performing the request or not (i.e., of attending either to the literal meaning or to the indirect one). In the case of Excerpt 1 above, the interpreter seems to be giving the defendant the choice of whether or not to comply with the immigration judge’s request. Searle believes that the main motivation for using indirect speech acts instead of direct ones is politeness, which is the motivation for indirectness in requests. The interpreter has converted a directive speech act into an indirect request, changing the direction to fit of the judge’s directives and their illocutionary force.

Formal forms of address also reflect social distance, according to Thomas (1999). However, when immigration interpreters add formal forms of address when interpreting, in order to show deference to defendants, they not only accord them a higher social status than immigration judges do, they also show consideration for these defendants that the judge is not in fact conveying. In order to comply with Hispanic cultural norms that require the use of such titles as *señor*, *señora*, or *señorita*, interpreters accord defendants respect and greater status, because addressing someone using polite forms of address indicates a high degree of respect in the Hispanic culture. Thus, when interpreters use polite forms of address with defendants, they return to them their social status and make them feel respected and less intimidated by the interviewing process. I would argue that the interpreter’s main motivation for using polite forms

of address is to make the person feel more respected and less threatened by the hearing process and the immigration officials.

Researchers like Berk-Seligson (2002) and Conley and O'Barr (1982) have done other experiments to test their hypotheses regarding jurors' subjective reactions to powerless testimony. Conley and O'Barr's study found that participant-jurors had less favorable reactions to male and female witnesses who used powerless speech in their testimony. Berk-Seligson tested the impact on mock jurors of the use of politeness markers by witnesses. Her expectations were based on the idea that politeness is one of the defining characteristics of a style of testimony that has been called powerless, and that has been shown in experimental studies to be associated with negative evaluations of witnesses. Contrary to the expected results, she found that the use of politeness markers by witnesses did not have negative consequences—in fact quite the opposite. Mock jurors gave favorable evaluations to witnesses who used politeness markers in their testimony, associating their use with such traits as intelligence and competence. Berk-Seligson found that the interpreter's mediator role was pivotal in producing these favorable evaluations of witnesses. Thanks to the interpreter's polite rendition of the testimony, mock jurors rated witnesses better, both socially and psychologically. In fact, mock jurors in this study rated witnesses more negatively when there was an absence of politeness markers in the interpreter's rendition. Furthermore, Berk-Seligson (2002) concluded that adding politeness markers enhances a witness's image.

My data, like that of Berk-Seligson (2002), show that immigration interpreters add politeness markers; I believe this is because they want to enhance the image of the defendant. I would argue that immigration interpreters accord defendants a higher status than immigration judges do. Interpreters of Spanish use politeness markers by choice, adhering to Hispanic

cultural norms in order to make defendants feel more comfortable, less intimidated, and more powerful in the hearing process.

Interpreters' use of negative politeness could also have helped defendants rate the judge and the judicial process more favorably. One wonders whether defendants, had they been given the opportunity to rate both the interpreters and the immigration judge, would have rated the interpreters more favorably, since the interpreters were the ones adding politeness markers. I expect that this would tend to vary according to each defendant's English listening skills. In order to rate the interpreter higher, the defendant would probably have to notice that the judge was not using politeness markers or polite forms of address. Unfortunately, the special conditions and restrictions on access to data from immigration hearings made testing defendants using any sort of subjective reaction test of the type used by Berk-Seligson and O'Barr impossible.

However, my ethnographic notes do indicate defendants' comments about some of the interpreters. Defendants described some of the interpreters as nice and polite and others as impersonal and impolite. It is very likely that defendants who felt comfortable with the interpreters also had feelings toward them that were more positive as well. Therefore, it is very likely that interpreters' use of politeness markers had some mitigating effect on the sometimes-hostile attitudes of the judge and the attorneys.

8.6.5. Gum Shoe Syndrome

The ethnographic notes and linguistic analysis of some of the excerpts give some indication as to why interpreters added politeness markers and indirect speech in these situations. Excerpt 6 reveals a situation in which the interpreter is more of a human being than a mere interpreting machine:

Excerpt 6 is from Case 14.

6.1 Trial attorney: Did you pay for the whole thing, or did your employer pay for a portion and you paid for the other portion?

6.2 Interpreter: *Señora, si sabe, ¿lo pagaba usted todo o todo el seguro, o solo la porción del seguro?*

6.3 Defendant: *El seguro paga... el seguro pagaba cierto porcentaje y uno paga lo demás.*

This text corresponds to the case of a woman who entered the country illegally and was caught at the border. She wants to stay in the country because she wants to give her children better educational opportunities by raising them in the United States. Her removal from the United States has been ordered; therefore, she is seeking cancellation of removal.

In immigration hearings, the evidence must be presented in a specific order. First, the defense attorney examines the defendant directly. This is the defense attorney's chance to elicit testimony that is favorable to the defendant and to state the hardships the defendant will face upon deportation. Second, the government (or trial) attorney cross-examines the defendant, trying to destroy the defense attorney's case. The trial attorney's cross-examination tests the defense attorney's assumptions about the defendant's credibility and attempts to create doubts about it. By the time the trial attorney begins the cross-examination the defendant has already had a chance to tell her side of the story. In this case, as the trial attorney begins to cross-examine the defendant, she becomes nervous. The interpreter, sitting next to the defendant, observes that she is becoming more and more nervous as the trial attorney's cross-examination proceeds. Immigration interpreters are seated next to defendants, leaning toward them, passing them tissues when they cry, and telling them to calm down when they get nervous. In this type of setting, the defendant could easily view the interpreter as an advocate. Since the interpreter is physically close, the defendant may begin to feel emotionally close to the interpreter as well. The physical setting can be a highly relevant factor in determining the degree to which a defendant

will tend to “cling” to the interpreter (Morris, 1999, p.10). In the U.S. court system, interpreters are usually seated next to the defendant, whereas in some other countries, for example, Austria, the defendant is isolated from the interpreter. Thus, interpreters may be viewed by defendants not only as language filter and mediator, as liaison between the U.S. government and themselves, but also as the closest representation of home. If the defendant feels close to the interpreter, what would impede the interpreter from feeling closeness to and sympathy for the defendant as well?

Even though interpreters are supposed to be unobtrusive participants in court proceedings, scholars such as Morris acknowledge that interpreters are mere human beings whose emotions and attitudes may influence their performance. Morris calls this contrasting situation the *gum syndrome*, since the interpreter is in a no-win situation, stuck to this dual role and image:

Caught between these two extremes, the court interpreter may be made to feel like the merest of incidental items, and at the same time, the most important person in a defendant’s life. These two contrasting situations have been likened by interpreters to being a piece of gum on the bottom of a shoe, ignored, for all practical purposes, but almost impossible to remove. (Morris, 1999, p.7)

Furthermore, she explains, factors such as level of professionalism, experience, stress, and various affective responses influence the interpreter’s role in court.

In Line 6.2, besides addressing the defendant using the polite form of address—*señora*—the interpreter added *si sabe* (if you know) in his rendition. The interpreter felt compassion for defendant because of her situation, and therefore wanted to show solidarity. By adding *si sabe*, the interpreter is being polite, is mitigating the severity of the cross-examination, and is attempting to make the defendant feel at ease. The interpreter ostensibly gives the defendant the option to answer or not via the utterance *si usted sabe* (if you know). This may have given the defendant the impression that the trial attorney had toned down the cross-examination, thereby lowering her anxiety. The consequence is a change in the illocutionary force of the government

attorney's cross-examination. This may also lead the defendant to view the trial attorney not as intimidating, but as understanding and compassionate.

I would argue that by adding politeness markers, indirectness, and polite requests, interpreters mitigate the severity of the trial attorney's tone and help defendants feel more comfortable and less intimidated by the hearing process. Some interpreters do this at a conscious level, whereas others do it unconsciously. On several occasions, interpreters acknowledged how intimidating the hearing process could be for a layperson. At the same time, interpreters acknowledged that the trial attorney's job is to create an intimidating atmosphere in order to catch the defendant in a lie. The trial attorney's job is to have the defendant deported, and attempting to discredit the defendant's testimony is part of that job. Interpreters have admitted to feeling "sorry" or "bad" for those defendants who become nervous and emotional under the stress of the proceedings. Furthermore, interpreters expressed feeling sorrier for those defendants who had already suffered hardship upon returning to their native country. It is very likely that interpreters feel moved by the stories the defendants recount in their testimony, and want to help them make it through this intimidating process. Despite interpreters' intentions to interpret faithfully, they often change the illocutionary force intended by the trial attorney and the immigration judge, as well as the perlocutionary force of the utterance.

8.6.6. Change of Anaphoric Reference to Convey Common Ground

8.6.6.1. Deixis and Indexicality.

The concept of *deixis* is intrinsically connected with the concept of reference. Deixis refers to the pointing or specifying function of some words (as definite articles and demonstrative pronouns) whose denotation changes from one discourse to another (Merriam-Webster online, 2005). People use different linguistic strategies to facilitate the identification of

the hearer with the object or matter to which the speaker is referring (Yule, 1996). Adverbs such as *here* and *there*, *up* and *down*, *right* and *left*, as well as pronouns such as *you* and *I*, are examples of deixis or indexicality. The referent of a deictic word is bound to the context; therefore, its meaning will change depending upon what the speaker is referring to (Shiffrin et al., 2001). Personal pronouns are indexical, since one has to find the reference within the local context of the discourse to make sense of them. Whether a word is being used deictically or anaphorically will depend upon the relationship between the pronoun or adverb and the referent.

Those pronouns used to point to people and things in the immediate context are being used indexically/deictically, while those assigned to referents based on “coreference” with a noun phrase in the preceding discourse are called anaphoric. (p.80)

8.6.6.2. A. Co-reference and Anaphora.

Scholars of generative linguistics and interpretative semantics (Jackendoff, 1972) have approached anaphora from a number of perspectives. They all agree that anaphora is established through co-reference and through the discourse process (Shiffrin et al., 2001). An example of co-reference anaphora can be found in the sentence: “Jason told Mary he wished her the best.” In this case, *he* and *her* may be coreferential with *Jason* and *Mary*. However, these pronouns could also refer to a male and a female other than Jason and Mary. Thus, the context of the utterance will determine the referent of such anaphoric pronouns.

Yule (1996) states that people’s ability “to identify intended referents has actually depended on more than our understanding of the referring expression” (p.21). According to Yule (1996), people rely on the linguistic elements within the context to make the reference-object association. This linguistic material is called the co-text. Along with the co-text, one needs, of course, the context, or the physical environment in which a referring expression is used. Examples of physical environments are restaurants, stadiums, and courts. Thus, in the case of a

sentence such as *Number eight has a cavity and needs a filling*, the hearer will infer that the utterance does not take place at a hearing, but instead at the dentist's office. In addition, one needs to be familiar with the local and socio-cultural conventions of the people in a conversation to be able to identify the referents. For instance, teachers may refer to their students by the number or name of a course: *My 314 students didn't finish the exam on time*. One needs to have local knowledge to understand that "314" refers to a particular course with that number. Furthermore, one needs to know that the local context of this utterance is an educational institution. Yule adds:

Reference, then, is not simply a relationship between the meaning of a word or phrase and an object or person in the world. It is a social act, in which the speaker assumes that the word or phrase chosen to identify an object or person will be interpreted as the speaker intended. (Yule, 1996, p.22)

Immigration interpreters, in using anaphora, often change the antecedent. In Excerpt 1, Line 1.2, the interpreter used the first person plural pronoun instead of the first person singular.

Excerpt 1 is from Case 14.

1.1 IJ: To the respondent, through the interpreter—please, state your name.

1.2 Interpreter: *Señorita, díganos por favor, usted puede dar, usted... su nombre.*

1.3 Defendant: *Laura Azucena Ramírez.*

On many occasions, I noticed interpreters including themselves in the cross-examination process by using the first person plural. Interpreters tended to switch back and forth from the first person singular to the first person plural. Again, interpreters acknowledged feeling moved by some of the stories defendants told. Furthermore, interpreters know they represent home for many defendants. By identifying themselves as part of the immigration court and the hearing procedure via their use of the first person plural, these interpreters may have been trying to put defendants more at ease.

8.6.6.3. Change of Anaphoric Reference: *I* to *We*.

When interpreters change the anaphoric reference to the first person plural, defendants may get the impression that they are also giving the answer to the interpreter. The interpreter is the closest representation of home to the defendant; therefore, the defendant may feel more comfortable and less threatened by the idea of addressing the interpreter rather than the immigration judge when answering the question. Once more, the interpreter mitigates the cross-examination. Interpreters are required to maintain legal equivalence in interpreting the source language. Changing the anaphoric reference in the target language rendition not only violates the principles of good interpreting, but could also be confusing for the defendant. Witnesses and defendants have been hearing a first person singular antecedent, as in Excerpts 4.2 and 5.2:

Excerpt 4 is from Case 12.

4.1 Immigration Judge: ... You have to return here on Friday, that is, August 1st, 2003, at one o'clock in the afternoon, in the same courtroom. If you fail to appear here on that day and time you could be ordered to be deported or removed from the United States in your absence, do you understand?

4.2 Interpreter: *Señor Martínez, entonces le va a tocar volver aquí este viernes, agosto primero, a la una de la tarde, en esta misma sala; si usted no viene ese día, yo podría tener la audiencia sin usted y ordenar que lo deporten, entiende?*

4.3 Defendant: Sí.

4.4 Interpreter: Yes.

Excerpt 5 is from Case 12.

5.1 IJ: Ok, and I am giving you the date, time, and place of your next hearing in writing, so you don't forget that is August 1st, 2003, at one o'clock in the afternoon, in the same courtroom. I am providing you with another paper which advises you if you do fail to appear on August 1st, 2003, in this courtroom and for 10 years after that date you will be ineligible to receive voluntary departure, cancellation of removal, and adjustment of status to legal residence, do you understand?

5.2 Interpreter: *Bueno, Señor O. Entonces le voy a dar un papel aquí que va a recordarle la fecha, la hora, y el lugar de la próxima audiencia que es otra vez viernes, agosto primero del 2003 a la una de la tarde. También le voy a dar un papel que le va a decir que si usted no viene usted va a tener consecuencias hasta por diez años. Usted no va a poder pedir ningún beneficio como son la salida voluntaria, cancelación de expulsión, y el ajuste a residente permanente.*

When the interpreter changes the anaphoric reference from *I* to *we*, defendants may face confusion as to who is posing the question, since the *we* co-text does not match the first person singular reference that was used initially. Regardless of whether the interpreter is making this type of change purposely or inadvertently, the defendant's perception has nevertheless been altered. In such situations, defendants could easily see interpreters as additional fact-finding officials of the court.

8.6.7. Interpreter Manipulation of Polite Forms of Address

8.6.7.1. Interpreter Filtering of Defendant-Initiated Polite Form of Address: No Sir, Yes Ma'am.

Morris (1999) and Berk-Seligson (2002) state that variables such as physical space, professionalism, experience, human subjectivity, and socio-cultural background may influence interpreters to convey to witnesses and defendants some sense of closeness. Similarly, defendants from immigration hearings may not see immigration interpreters simply as mechanical instruments of interpretation. As mentioned above, interpreters convey closeness by using polite form of address and indirect speech, and by changing the anaphoric reference. Berk-Seligson (2002) found in her data that interpreters' use of verbal politeness had other effects on the witnesses. When interpreters addressed witnesses using polite forms of address such as *señor* or *señora*, they often initiated a cycle of politeness that was reciprocal: witnesses would begin to address the interpreter directly, using polite forms of address as well. Such a situation can create confusion among the participants, since the witnesses respond as if the interpreter had assumed the role of cross-examiner (Berk-Seligson, 2002). Defendants and witnesses from the immigration hearings I observed also addressed interpreters directly, also using polite forms of address. However, my data show that immigration interpreters were usually unable to maintain

legal equivalence because they did not know how to interpret the forms of address the defendants used.

The texts presented below show that interpreters handled the situation in several different ways when defendants responded by addressing the interpreter using polite forms of address. Some immigration interpreters chose to maintain the legal equivalence of the source language in the target language; some chose to correct the form of address to maintain the illusion that the defendant was addressing the judge or the attorney rather than the interpreter; and some chose to simply ignore the defendant's politeness marker by not translating it. In contrast to Berk-Seligson's data, in which interpreters were the ones initiating each cycle of politeness, in my data, defendants are the ones initiating the cycle of politeness when they address the interpreter directly.

The following text comes from a case involving a woman who was caught using illegal substances. This defendant had already attained legal status in the early 90's. However, she broke the law by using illegal substances; therefore, she has become an undesirable alien. As discussed above, variables like physical setting, stress, and fear may cause defendants to identify with interpreters and see them as saviors or advocates. I observed that when defendants felt vulnerable, fearful, and pressured, they found it easier to address directly those who seemed to represent home, i.e., the interpreters, since they spoke the language of home. Interpreters have identified this problem in the past; the issue here is what tactics interpreters use to deal with the incorrect use of polite forms of address on the part of these defendants. Excerpt 7 shows how the interpreter deals with the situation when the defendant addresses her, using a polite form of address, rather than the immigration judge:

Excerpt 7 is from Case 28.

7.1 Defense attorney: You entered in '89-'90... how did you uh... you're currently a permanent resident, is that correct?

7.2 Interpreter: *Eh usted entró en el '89-'90 pero ahora usted es residente permanente?*

7.3 Defendant: *Sí, señorita.*

7.4 Interpreter: Yes, ma'am.

The interpreter in this case is female and the immigration judge is male. Therefore, by using *señorita* (miss), the defendant makes it clear that she is addressing the interpreter directly rather than the immigration judge. It should be kept in mind that interpreters have to render the legal equivalence of the source language in the target language. In line 7.4, the interpreter chose a rendition that was almost equivalent to the defendant's actual utterance; therefore, the interpreter did not fail to maintain legal equivalence because she interpreted what the defendant said almost literally. In situations such as these, the interpreter is confronted with a dilemma: Should the interpreter maintain legal linguistic equivalence, or make the defendant's words fit the world? Since the immigration judge is male, the interpreter's polite form of address did not match the immigration judge's gender. Situations such as these may be annoying or confusing to the immigration judge.

Kestler (1992) recommends that attorneys become familiar with the judge, not only to avoid the embarrassment of appearing inept, but also to avoid being admonished by the judge for violating courtroom protocol. Furthermore, Kestler (1992) recommends that interpreters listen carefully to witnesses' responses to the attorney's questions so as to be able to anticipate the next question while listening to the response. Since immigration judges function as juries, too, it is the job of the attorneys to persuade the judge. The immigration judge listens to the testimony and judges its credibility in order to determine the future of the defendant. Experienced immigration interpreters will have had a chance to get to know the judge's style and personality, and to determine whether the judge is rule-oriented or relationship-oriented (Conley & O'Barr, 1990).

When interpreters notice that defendants repeatedly address them directly using polite forms of address, many of them change the gender of these forms of address to make it seem as if the defendant were answering the immigration judge or the attorney, as would be appropriate. The following excerpts demonstrate this way of interpreting the defendant's use of a polite form of address:

Excerpt 8 is from Case 28.

8.1 IJ: Did you ever marry him in Peru?

8.2 Interpreter: *¿Usted alguna vez se casó en Perú?*

8.3 Defendant: *No, señorita.*

8.4 Interpreter: No, no sir.

Excerpt 9 is from Case 28.

9.1 Defense attorney: Eh, now are you currently employed?

9.2 Interpreter: *¿Usted en este momento esta empleada?*

9.3 Defendant: *Sí, señorita.*

9.4 Interpreter: Yes, sir.

9.5 Defendant: *Sí, estoy trabajando.*

9.6 Interpreter: Yes, I am working.

Excerpt 10 is from Case 28.

10.1 Defense attorney: In the time that you have been here, have you filed your taxes?

10.2 Interpreter: *¿En los tiempos que usted eh en el tiempo que usted ha llevado aquí usted ha pagado sus impuestos?*

10.3 Defendant: *Sí, señorita.*

10.4 Interpreter: Yes, sir.

Excerpt 11 is from Case 28.

11.1 Defense attorney: Anything else?

11.2 Interpreter: *¿Algo más?*

11.3 Defendant: *No, señorita.*

11.4 Interpreter: No, sir.

What these excerpts show is that the interpreter wants to avoid the confusion the defendant introduced when she addressed the interpreter rather than the appropriate party. The interpreter thus attempts to solve this problem by interpreting as if the defendant had addressed the immigration judge or the attorney using a courtesy title that would be appropriate for addressing

a male, namely *sir*. The interpreter in this case has opted not to render the legal linguistic equivalent of the defendant's utterance. I inferred that interpreters might choose to change the form of address in such situations because they might want to prevent any damage to the defendant's image that might arise from the awkwardness of the situation. When defendants use such seemingly incongruous polite forms of address, they run the risk of appearing incompetent, careless, and less respectful, and therefore, less credible. When interpreters change the defendant's polite form of address to make it agree with the immigration judge's gender, they help restore the defendant's image. These interpreters want to help defendants sound assertive so their testimony will seem more credible. Interpreters act like attorneys in the sense that they listen carefully to the defendant's responses to the questions of the immigration judge and the attorneys. These interpreters aim to somehow fit the defendant's words into the social rules of the conversation. In the texts above, the interpreter chose to use metalinguistic politeness or conversational etiquette strategies to resolve incongruity in the defendant's responses and make the defendant's testimony sound coherent. I would argue that interpreters perform these actions consciously and with the goal of saving the defendant's positive face.

Some interpreters deal with incongruities like those found in the excerpts above by simply deleting the defendant's polite form of address in the target language rendition. The text below exemplifies this tactic:

Excerpt 12 is from Case 8.

12.1 IJ: Why do you think I should let you stay in the country after all the crimes you committed?

12.2 Interpreter: *¿Por qué cree que la debería dejar quedarse en el país después de haber cometido tantos errores?*

12.3 Defendant: *Ay señorita, porque mi familia tiene tantas oportunidades aquí...*

12.4 IJ: Can you tell me why you think you deserve to be given another chance?

12.5 Interpreter: *¿Me podría decir por qué cree usted que se merece que le den otra chance?*

12.6 Defendant: *Ay señorita, porque yo ya me estoy portando bien, señorita; yo ya me dedico a trabajar y a pagar mis taxes.*

12.7 Interpreter: I am a hard worker; I pay my taxes.

In Lines 12.3 and 12.6, the defendant introduced the form of address *señorita*, which the interpreter completely ignores. It is very possible that interpreters get tired of hearing the same incongruous forms of address and think that these particles are not relevant to helping the judge create a true image of the defendant's credibility and respect for the court. By ignoring altogether the defendant's use of politeness markers, the interpreter may also be changing the image of the defendant's character, attitude, and respect that the judge may have been constructing on the basis of defendant's use of such forms of polite address. Therefore, this practice of deletion does violate the principles of good interpreting and it also changes the illocutionary force of the defendant's utterance.

8.6.7.2. Adding Polite Form of Address to Placate Judges: Yes, judge; No, judge; Yes, sir; No sir.

The data also show interpreters adding polite forms of address in the target language. In many instances, I observed interpreters adding *sir*, or *judge*, or *your honor* to yes/no questions.

The following texts exemplify situations in which interpreters added these polite forms:

Excerpt 13 is from Case 14.

13.1 Immigration Judge: Is he authorized to speak for you today in this hearing?

13.2 Interpreter: *¿Está autorizado de representarla en este proceso?*

13.4 Defendant: *Sí*.

13.5 Interpreter: Yes, Judge.

Excerpt 14 is from Case 14.

14.1 Immigration Judge: So, from the time you got married until now, you've been more or less working in the same place, is that correct?

14.2 Witness: *Sí*.

14.3 Interpreter: Yes, Judge.

Excerpt 15 is from Case 28.

15.1 Immigration Judge: So you've been living here in the United States for almost half of your life.

15.2 Interpreter: *Entonces...*

15.3 Witness: Yes.

15.4 Interpreter: Yes, Judge.

Excerpt 16 is from Case 15.

16.1 IJ: Were they related in any way to the attacker?

16.2 Interpreter: *¿Ellos son familiares del que lo atacó?*

16.3 Defendant: *No*.

16.4 Interpreter: No, Judge.

Excerpt 17 is from Case 15.

17.1 IJ: Sorry what did you say? I don't understand.

17.2 Interpreter: I was drinking... *¿Usted insultó a a los hermanos suyos o los de ella?*

17.3 Defendant: *No, los míos*.

17.4 Interpreter: I was drinking, Judge, and I insulted my brothers.

17.5 IJ: You were drinking with your brother?

17.6 Interpreter: *¿Usted estaba bebiendo con el hermano suyo?*

17.7 Defendant: *No, estaba yo solo*.

17.8 Interpreter: I was alone, I was drinking.

Excerpt 18 is from Case 28.

18.1 IJ: Have you ever used any other names besides that one?

18.2 Interpreter: *¿Usted alguna vez usó algún otro nombre aparte de esos?*

18.3 Defendant: *No*.

18.4 Interpreter: No, sir.

These excerpts correspond to three different cases in which defendants were seeking cancellation of removal. Two of these excerpts are from a case in which the defendant was convicted of domestic violence and had a traffic violation. Furthermore, he did not have the necessary legal documentation to stay in the country; he was therefore eligible for deportation. Two other excerpts are from the case of a female defendant who worked in the United States using a forged social security number. Furthermore, upon returning to the United States, she lied and said that she was an American citizen. She went to court to seek adjustment of status since she was by then married to an American citizen who was sponsoring her legal residency. One of the excerpts is from the case of a female defendant who was charged with possession of and intent to sell illegal substances.

It is important to note that in each case the atmosphere of the hearing became tense as the immigration judge began to lose patience at some point in the hearing. These three hearings were more lengthy than usual, and both the immigration judges and the trial attorneys were becoming annoyed by the stories of these defendants. The trial attorneys wanted to deport them. The immigration judges needed to give the defendants a chance to tell their stories in order to give them a fair trial, but became impatient because the testimony was not credible. Immigration judges feel that defendants and defense attorneys are wasting everyone's time and money when defense attorneys defend cases that do not have sufficient equity or that clearly do not deserve any type of government relief.

As was illustrated in Excerpts 13 through 18, these interpreters wanted to provide a more polite answer than was conveyed by the defendant's simple answer, *sí* (yes) or no, so they added *judge* or *sir*. One wonders whether the politeness these interpreters were striving for was for the sake of these defendants or for their own sake. Even though it is not possible to measure the direct impact this practice may have had on the hearer, namely the immigration judge, I would argue that interpreters added these forms for the purpose of speaking politely to the immigration judge. It seemed almost as though the interpreters were directly addressing the immigration judges, and therefore needed to show respect and deference toward them. Berk-Seligson (2002) finds in her data the same type of politeness being initiated by interpreters. She explains that interpreters are sensitive to the fact that they work for the court as regular employees. Consequently, they may feel obligated to show respect for their superiors:

The addition of politeness markers to defendants' answers may simply be part of the sense that interpreters have that judges are listening to them as persons in their own right, and not merely as mechanical vehicles for converting speech from one language into another. (Berk-Seligson, 2002, p.154)

Berk-Seligson's observations seem to hold for immigration interpreters as well, since they experience the same types of job-related pressures. Immigration interpreters work under contract and as needed. Furthermore, immigration interpreters are evaluated not only by the coordinator but also by immigration judges. So it is in interpreters' best interest not only to give their best performance, but also to defer to the immigration judge, who will then be more likely to write them good reviews so they will be called again by the commercial interpreting agency to serve as interpreters at this immigration court. Immigration judges acknowledge those interpreters who do a good job and those who do not. Judges are also entitled to request or to reject interpreters on the basis of their linguistic ability, their experience, whether or not they can do either simultaneous or consecutive interpreting, and even their personality.

This interpreting agency tries to comply with judges' demands as much possible and in most cases will assign whichever interpreter the judge prefers. There is one immigration judge who always requests the services of one particular interpreter for all cases taking place in Spanish. This judge does not allow any other interpreter of Spanish to serve as an interpreter in this judge's court. This judge feels that this particular interpreter is the most competent and linguistically skilled in both Spanish and English. In such cases interpreters build a linguistic bond with particular judges as they become regular interpreters in a given court. Interpreters come to know how these judges like to be addressed, whether they are rule-oriented or not, and whether they prefer consecutive or simultaneous interpreting.

I also observed that as the defendant's testimony becomes less credible and more powerless, the immigration judge begins to lose patience. I observed that some interpreters add these polite forms of address so as to speak directly to the judge in such instances. It is possible that interpreters add these polite forms of address not only to show respect for the immigration

judge, but also to distance themselves from the testimony of the defendant. My ethnographic data show that immigration interpreters acknowledge being tired of hearing defendants tell the same story over and over again, seeking the judge's indulgence or reprieve. Many interpreters believed that they were able to determine whether a defendant was telling the truth or not. They believed that defendants' fillers, boosters, hedges, and other powerless particles indicated that defendants were fabricating their stories. Experienced interpreters have had a chance to hear all kinds of stories. They also notice that similar details recur in similar types of cases. For instance, defendants who invoked the CAT (Convention Against Torture) were always persecuted by the FARC (Fuerza Armada Revolucionaria de Colombia) either in a motorcycle or in an SUV. Some interpreters who hear the same story again and again believe that the defendant has fabricated the whole story or that someone has advised the defendant to tell the story in a certain way. In such instances immigration interpreters prefer to address the judge directly, in a polite way, to show respect from a personal standpoint, to show respect for the immigration judge's intelligence, and to detach themselves from what they perceive to be the defendant's lies.

8.6.7.3. Saving Face: *That Woman Becomes Esa Señora*

According to Goffman, every person is concerned with maintaining face, which is the self-image one presents to others. Thus politeness is the counterbalance that compensates for this risk of losing face (Brown & Levinson, 1987). These scholars assume that communication is an inherently dangerous and antagonistic activity that causes people to be concerned about losing face (Brown & Levinson, 1987). Members of society are constantly aware of their own public self-image, or *face*, and aware of that of others as well. As was explained in the literature review, there are many acts that could represent a face-threatening act (FTA) to the positive face of the hearer. Some of these are expressions of disapproval, criticism, contempt, or ridicule, as well as

complaints, reprimands, accusations, disagreements, and challenges. Others are showing irreverence, mentioning taboo topics, bringing bad news or good news (boasting), using improper terms of address, and interrupting disruptively, to mention a few. This part of the analysis is concerned with the use of improper terms of address.

The analysis of the data above has shown that interpreters show solidarity with and adherence to the Hispanic culture of the defendants by adding polite forms of address to the testimony. Immigration interpreters incorporate polite forms of address into the testimony in other instances as well. The data show that whenever immigration judges, attorneys, and defendants refer to women who are not present and who have had some negative impact on the defendant, such women are referred to by the judge, the attorneys, and sometimes even by the defendant in the third person singular, and are not shown any deference. Interpreters are the ones who add the proper polite form of address when these women are alluded to, either in the cross-examination or in the testimony. As was mentioned earlier in this chapter, speech variation in the testimony has an influence on the actions of legal-decision makers. Likewise, the choice of lexicon on the part of attorneys and immigration judges has an influence on the answers of the defendant. Conley and O'Barr (1998) add the following:

Lawyers control not only the timing of the questions but also their form. This is significant because the form of a question can limit the range of permissible answers available to the witness. Some kinds of questions can also serve as statements of blame that stand irrespective of the witness's answer. (p.24)

Immigration interpreters also make use of linguistic devices to control the cross-examination, just as attorneys do. The texts below correspond to two different cases in which the defendant is accused of fraudulent marriage. The government wants to deny them residence status and have them deported. Both the defense attorney and the immigration judge refer to these defendants'

wives as this woman or a woman. The following excerpts demonstrate how the judge and defense attorney use this nominalization technique:

Excerpt 19 is from Case 8.

19.1 Defense attorney: Uh, do you remember when you and a uhmm and this woman got married?

19.2 Interpreter: *¿Usted se acuerda cuándo se casaron usted y esta esa señora?*

19.3 Defendant: *Sí, la fecha de... del matrimonio fue el 14 del '92.*

19.4 Interpreter: Yes, the date of the marriage was 14 of '92.

19.5 Defense attorney: Fourteen of what of '92?

19.6 Interpreter: *¿Catorce de qué... de qué mes?*

19.7 Defendant: *Marzo.*

Excerpt 20 is from Case 12.

20.1 Immigration Judge: In addition the government charges that you sought to get permanent residence in the United States through fraudulent marriage to a woman named M. A.

20.2 Interpreter: *También el gobierno lo acusa de que usted trató de conseguir la residencia casándose con un matrimonio falso con una señorita M. A.*

The nominalization devices used by the judges and defense attorneys allow the speakers to establish distance between the defendant and his wife. In Line 19.1 the defense attorney asks about *this woman*, but in Line 19.2 the interpreter renders this as *esa señora*. The same occurs in Line 20.1, in which the immigration judge refers to the defendant's wife as *a woman*. However, in Line 20.2 the interpreter renders this in Spanish as *una señorita*. What this examination shows is that the interpreter finds the defense attorney and immigration judge's form of reference improper, especially if it is referring to a married woman. In Hispanic cultures, women who are married gain respect, and therefore, demand to be called *señora*, or even *doña*, a form that is used with the first name and that represents a more colloquial way of saying *Mrs.* in English. Furthermore, in Hispanic cultures, addressing or referring to a married woman without using the proper courtesy title is considered an FTA to both the positive face and the negative face of the hearer. This would indicate that the speaker dislikes the hearer's wants, acts, goods, and/or

personal characteristics, and furthermore, does not respect the hearer's desire for freedom from imposition, in particular the imposition that the courtroom interrogation represents. Therefore, the interpreter shifts up the form he uses to refer to the women in question in the Spanish rendition to show respect and to avoid an FTA to the hearer's positive face.

Furthermore, the interpreter does not want to risk his own face. The interpreter, who identifies with Hispanic cultural norms, is aware that his failure to use the proper courtesy title would not only threaten the hearer's face, but would also threaten his own face, as the speaker. Once more, the problem this creates is that the interpreter is not mirroring the illocutionary force of the utterance of either the defense attorney or the judge. The defendant then hears a more formal, polite, and respectful form of reference through the interpreter when his wife is mentioned in the cross-examination.

One could argue that in English one can say a woman or that woman in some contexts and still sound polite; however, these forms are not deferent in the Hispanic language/culture. Therefore, the interpreter adheres to the Hispanic cultural norm of politeness and shows respect for a married woman by using the proper courtesy title. It is important to recall the reason these defendants are being prosecuted: both defendants are charged with fraudulent marriage. That is to say that these men allegedly wanted to attain legal residency, or a green card, through false marriage. Anyone who marries an American citizen has a right to apply for and obtain legal residence status. The government gives the married couple two years to prove that their marriage was in good faith. Those immigrants whose marriages are found to be fraudulent are deported. Even though their wives participate in the fraud, the government does not prosecute them and they do not even need to be present in court for their ex-husband's hearing.

The use of nominalization devices by the immigration judge and the trial attorney serves to treat the woman in question with indifference so as to establish her social distance from the defendant. Since the wife is also considered to be at fault for having helped the immigrant obtain American residency unlawfully, the judge and the defense attorney do not want to portray the defendant as having any sort of emotional or affective connection with his wife; they instead want to emphasize the severity of the defendant's legal offense.

In Except 19, however, the defense attorney is also referring to the wife with indifference. The defense attorney should be eliciting favorable testimony from the defendant in order to advance his case, yet he is reinforcing the distance between the wife and the defendant. This seems at first glance as if it might be detrimental to the outcome of the case. However, this case in particular was very peculiar, since the defendant claimed that his wife had gotten angry with him at some point, and that was why she had called the INS claiming that he had married her for the sole purpose of obtaining a green card through her. Referring to the defendant's ex-wife with indifference was probably a linguistic technique the defense attorney was using to create a sense of distance between the two and to portray the wife as victimizer and the defendant as victim. In Lines 19.2 and 20.2, the interpreter changes the defense attorney's and the immigration judge's references to the wife. They use a nominalization form that establishes distance in English, but the interpreter uses a polite form of reference that fits Hispanic conventions of polite conversation. In these two cases, the defendant only understands one of these forms: the interpreter's polite one. Therefore, it is possible that the image of the wife the defense attorney wanted the defendant to construct in his testimony could have been influenced by the image of the wife the interpreter actually presented.

The next text presents an interesting case. In Line 21.11, it is the defendant who refers to his wife in an impersonal manner. The immigration judge is almost convinced that the defendant got married solely in order to obtain residency in the United States. The defendant has already established that he is a womanizer. He refers to his wife in an impersonal way, calling her *esa mujer*, yet the interpreter attempts to maintain Hispanic cultural norms even in English, referring to the defendant's wife using a title—*lady*—that seems to match in English what would be a culturally appropriate courtesy title in Spanish—*señora*.

Excerpt 21 is from Case 8.

21.1 Immigration Judge: Where did you work during that year, that year that you were living with your wife at Y Street?

21.2 Interpreter: *¿Dónde trabajaba?*

21.3 Defendant: *Yo trabajaba soldadura en una compañía Y Puerto Rico que se llama X.*

21.4 Interpreter: I worked as a welder.

21.5 Immigration Judge: As a welder. Did you register the fact that you were a married with the company...

21.6 Interpreter: *¿Usted registró, le dijo a la compañía que estaba casado usted...*

21.7 Immigration Judge: ...whether you got health insurance, for purposes of taxes, for purposes of deductions...?

21.8 Interpreter: *...para los impuestos, ah uh o porque estaba usted casado por el seguro...?*

21.9 Defendant: *No no, le voy a hacerle fiel, la vida, yo llevaba la vida loca como como la canción de Ricky Martin. Pero...*

21.10 Interpreter: I I I lived a crazy life, as the song says...

21.11 Defendant: *...pero lo que le aseguro, lo que le aseguro es lo siguiente, no hay negocio, yo he tenido, tenía esa mujer en Puerto Rico.*

21.12 Interpreter: I assure you. I lived with that lady in Puerto Rico.

21.13 Defendant: *A parte de ella tenía a otra novia más porque soy bien mujeriego.*

21.14 Interpreter: And I had ah mmm another uh another girlfriend because I like women.

21.15 Defendant: *Y aquí en X and Z cuando tuve la entrevista aquí, traje una novia puertorriqueña...*

21.16 Interpreter: And over here in Z I brought an uh Puerto Rican girlfriend...

21.17 Defendant: *...que tienen que estar ahí los papeles, X se llama...*

21.18 Interpreter: ...that the papers have to be there her name is X... que?

21.19 Defendant: X. M.

21.20 Interpreter: X. M.

21.21 Defendant: *Entonces ella se quería casar conmigo...*

21.22 Interpreter: She wanted to marry me...

21.23 Defendant: *...y murió.*

21.24 Interpreter: ...and she died.

21.25 Defendant: *Ta... también dudan de que murió.*

21.26 Interpreter: Also now they doubt that she died.

21.27 Immigration Judge: This is not an interview to determine whether you are a Casanova or not.

21.28 Interpreter: hahahahahaha...

21.29 Defendant: jajajajajja...

21.30 IJ: That you have been with ladies or lack thereof, it's not my problem, okay?

21.31 Defendant: OK.

21.32 IJ: I am concerned only about your marriage to the petitioner, okay? And you can show me something to establish that that marriage was in good faith, that you were living together, that you were man and wife—if there is some way, then you have something to show me, okay? Because you are renewing the application before me and I could care less what happened before. But you so far have not given me one single piece of evidence to place the two of you at Y Street for one year. Now you tell me what do you have. You don't have a record of employment...

This passage shows the defendant using social distance when referring to his ex-wife. Tracy (2002) states that narratives have multiple purposes. One can tell a story to entertain, to convey disappointment or revenge, to make or discredit an argument, or to express morally questionable or devalued viewpoints:

A story may often serve more than one purpose: Above its very referential and informative functioning it may entertain, be a piece of moral advice, extend an offer to become more intimate, seek audience alignment for the purpose of joint revenge, and serve as a claim as to “who I really am”—and all that at the same time. (p.156)

The defendant uses storytelling to express his anger toward his wife and to seek the judge's compassion. He shows social distance from his wife by referring to her as *esa mujer* in Line 21.11. His anger stems from his assertion that his wife tore up their wedding pictures and never kept any utility bills so that he would be unable to prove that they were married for the time he claimed. Therefore, he doesn't have any hard evidence of their marriage. Furthermore, the defendant continues telling his story of a deceased girlfriend he had at the same time he was married, possibly to show that his wife had several reasons to be angry with him. Basically, his storytelling and the impersonal nominalization technique serve to devalue the image of his ex-

wife in front of the judge. However, the interpreter attempts to change this image of the defendant's wife by interpreting *esa mujer* as *that lady* in Line 21.12. But the interpreter, who is Hispanic, is most likely not aware that the connotation of *lady*, especially as used in the utterance *that lady*, has evolved from a polite title and form of address to one that is often pejorative (Lakoff, 1973). In any case, the interpreter is attempting to refer to the ex-wife in a more respectful way, so as not to be considered rude. In the examples presented in this section, the interpreters have shown cultural sensitivity through the use of courtesy titles and polite forms of address, thereby avoiding an FTA to their own face and to that of the hearers. These data show that interpreters are influenced by the politeness rules of the Hispanic culture. In respecting these, interpreters may convey an image that was not intended by the speaker, whether this image is that of the person referred to in the testimony or that of the defendant and his character.

8.7. CONCLUSION

This chapter shows that politeness and politeness markers play a consequential role in immigration hearings. Interpreters tended to incorporate polite forms of address into the testimony, most likely in order to show solidarity with the defendant, especially when the defendant became nervous and anxious because of the intimidating atmosphere. Interpreters sometimes attempted to mitigate this anxiety even further by rephrasing the questions using indirect question forms. This practice is problematic because it could mislead the defendant into thinking that answering the question might be optional. Whenever there were tense moments between the immigration judge and the defendant, interpreters chose to add polite forms of address to their target language rendition, often giving the impression that the witness was

addressing the judge using these polite forms when in fact this was not the case. They did this, I believe, in order to show respect to the judge and to avoid an FTA to the judge's positive face. It is clear in the examples above that interpreters are also concerned with saving their own face; they are reluctant to appear to have failed to show the judge the proper deference. Consequently, interpreters often act like attorneys, establishing solidarity with the witness to elicit favorable testimony, or distancing themselves from hostile defendants or witnesses to avoid an FTA, especially when these defendants choose not to address the judge using polite forms of address.

The way people present themselves will influence perceptions of their credibility, competence, and trustworthiness. When interpreters presented defendants and witnesses as having addressed the judge using polite forms of address they did not actually use, these interpreters gave the judge an erroneous impression. As explained above, interpreters did this, sometimes unconsciously, because they wanted to build a good rapport with the judge themselves. Nevertheless, it is not clear whether the immigration judge, in hearing these politeness markers, attributed the politeness to the interpreter or to the defendant. Thus, interpreters who add politeness markers in this way may alter the judge's image of the defendant's character and attitude. Interpreters also influence this image by shifting the register up a notch: Judges generally failed to use polite forms in addressing witnesses and defendants, but the interpreted rendition of the judge's question or statement often showed the presence of these politeness markers. Defendants then heard a judge who seemed to show them respect and deference.

Whether interpreters add politeness markers consciously or not, such additions may nevertheless alter defendants' perceptions of judges. Even though the literature on politeness has shown that politeness is often characteristic of powerless speech, this study shows interpreters

choosing to incorporate politeness markers that serve to restore defendants to their former social status in the Hispanic culture. The same applies to women who were referred to in a more impersonal way so as to diminish their alleged relationship with the defendant.

I would argue that politeness can be a powerful tool that allows interpreters to manipulate cultural relations among the parties involved. One interesting finding is that interpreters consistently accorded respect to women, even when the woman in question was not present and was only being referred to in the testimony. Even though interpreters have the ethical responsibility to maintain legal equivalence, even as to register and speech style, of the source language in the target language, these interpreters chose to adhere to Hispanic rules of politeness and the conversational contract of the Hispanic culture, especially when addressing or referring to women. I would argue that they considered it to be impolite and disrespectful, and to constitute an FTA to the hearer, to address or refer to women in the same indifferent, cold way the judges, attorneys, and even the defendants did.

Finally, in contrast to the interpreters Berk-Seligson observed, who tended to initiate each cycle of politeness, the immigration interpreters I observed were usually very careful to avoid using politeness markers in ways that might initiate a cycle of politeness and cause defendants to address the interpreter rather than the judge or attorney. Even though there were instances in which interpreters wrongly interpreted the defendant's polite forms of address, they usually corrected such errors at the next opportunity. Most of the time this practice did not result in any type of confusion that would have caused the judge to stop the hearing to make corrections to the interpretation. I would argue that immigration interpreters' use of politeness markers gives them a powerful tool for exerting linguistic, social, and cultural control over the discourse of immigration hearings.

9. FINAL REMARKS

9.1. DISCUSSION

In this dissertation, I have attempted to describe, interpret, and explain the linguistic and sociolinguistic challenges interpreters confront in the process of interpreting in immigration hearings. The analysis of the data has shown that immigration interpreters placed defendants at a linguistic disadvantage when they encountered syntactic, semantic, and lexico-pragmatic difficulties. Inadvertently or not, immigration interpreters became active members of the judicial fact-finding process through their linguistic choices. In addition to the constellation of sociolinguistic constraints interpreters faced, there were extra-linguistic factors that affected their performance. First of all, the communication and rapport they developed with immigration judges was important. Some interpreters reported feeling more comfortable with certain judges than with others. This often had to do with whether the immigration judge was rule-oriented or relationship-oriented. Interpreters felt more comfortable with those judges who were relationship-oriented. These judges had a positive influence on the attitude and performance of these interpreters in court, since the atmosphere was more relaxed and less threatening for all parties present. Some immigration judges, on the other hand, were very strict with time, attendance, and regulations. I observed that those interpreters who served with more rule-oriented judges were more apprehensive about making mistakes or interrupting the proceedings for clarification. The interpreting mode immigration judges requested was another variable that affected the performance of the interpreters. As was mentioned in previous chapters, interpreters

did not like to interpret simultaneously. Having to interpret simultaneously made most of the interpreters apprehensive because it gave them no time to gather their thoughts and made it extremely difficult to mirror the defendant's testimony faithfully.

Another variable was salary. Interpreters work by the hour without any fixed income or health benefits. Interpreters felt that there was no consensus as to how much they should be paid. Moreover, salary depended upon seniority. Some interpreters felt that they were not adequately compensated for their services. Being paid by the hour did not motivate them to continue their education, learn more about interpreting techniques, or improve their performance. Some interpreters would be appointed to serve at the immigration office or at another location a week in advance, but there was no guarantee that the hearing would actually take place. As was discussed in previous chapters, hearings are cancelled for a number of reasons and this means that interpreting services are cancelled as well. Low pay and lack of a regular salary made interpreters feel that their role and their performance were devalued and unappreciated.

Other factors in the quality of the interpreting I observed were the complete absence of certified interpreters and the general lack of sociolinguistic awareness among these immigration court interpreters. The immigration interpreters I observed were not certified. Even though interpreters were aware of the need for certification, they reported that they could not afford it and that passing the certification exam was very difficult. By lack of sociolinguistic awareness, I mean that although interpreters were aware of some of the linguistic challenges they faced at the level of lexicon—for instance, the use of *tarjeta verde* instead of *tarjeta de residencia*—they were not aware of the sociolinguistic impact of their linguistic choices on perceptions of the defendant's credibility, competence, trustworthiness, and total image.

Despite my attempts to remain an unobtrusive participant observer, my presence nevertheless led the majority of the interpreters I observed to become more conscious of their linguistic choices. Their questions and comments on words, their input on how they thought a word should be interpreted, and their desire to learn more about Spanish sociolinguistics revealed both their emerging interest and their lack of previous knowledge in this area. They developed some self-awareness regarding their use of potentially misleading calques and would apologize to me whenever they realized they had used them. Little attention was paid, however, to the consequences these mistakes had for the listener, and particularly for the defendant. As was mentioned in Chapter 4, immigration interpreters were not aware of the pragmatic force intended by the speaker. They usually overlooked hesitations and discourse markers, considering them to be inconsequential. They remained unaware of the linguistic importance of these particles, failing to comprehend their effect on perceptions of the speaker's character. These findings corroborate those of Hale (2004) and Berk-Seligson (2002) in this respect. I believe that interpreters should have access to linguistic and sociolinguistic education pertaining to the legal setting—specifically to the legal immigration setting—to promote linguistic legal equivalence and increase the chances that defendants will receive a fair trial.

Bilingual immigration judges and attorneys played a consequential role in the performance of interpreters by monitoring their linguistic choices. This practice is to the advantage of the defendant, since it is the interpreter's rendition that remains on record. Bilingual attorneys not only corrected interpreters' mistakes but also occasionally accused them of doing a poor job. Defense attorneys who had lost their case would often blame the interpreter. Interpreters appreciated the linguistic suggestions and corrections the immigration judges provided but were apprehensive with bilingual defense attorneys. Although the data show that

the interpreter does function as a powerful filter for the speaker's testimony, immigration judges base their decisions on the equity and other types of hard evidence that are presented in the hearing and not just on the oral evidence. Nonetheless, I share the concerns of the defense attorneys, who demand legal linguistic equivalence in the target language version of the testimony. We have seen that interpreters can easily construct a new courtroom reality. Yet, it would be unfair to place all the responsibility for the fate of the defendant on the shoulders of the interpreter. Bilingual attorneys, especially defense attorneys, forget that interpreters are human beings who make mistakes just like everybody else. Perhaps if bilingual attorneys become more aware of the many skills good interpreting requires, they will develop a more positive attitude toward interpreters.

The interpreter's role in immigration hearings goes beyond interpreting. It has been well established that the immigration interpreter often usurps the role of member of the fact-finding committee. Interpreters clarify, add, change, and sometimes delete parts of the testimony; they add politeness markers and change anaphoric reference. Moreover, some interpreters admitted they had attempted to help defendants who used low-prestige registers sound more intelligent and assertive. The opposite occurred as well, however. We saw that interpreters added repair mechanisms and other discourse markers that made defendants sound more hesitant and therefore less credible. Overall, the role of immigration interpreters is huge. They may assist with technicalities of the hearing process, whether by looking for a lawyer who has stepped out of the courtroom for a moment, or by helping defendants understand a legal document—with the judge's permission, of course (this is done off-the-record). They help to maintain a cordial and friendly atmosphere among judges and other parties to the judicial proceeding. They also assist individuals outside the courtroom with information about offices, lists of pro bono attorneys, and

general questions. It is important to recall the anxiety and apprehension one experiences just being inside the immigration building. INS officials and guards can easily be seen as intimidating because of the power they wield. Defendants are even more apprehensive because their future depends on their defense attorney's strategies for convincing the judge, on their own testimony, and now on the linguistic skill of the interpreter. Immigration interpreters are aware of these affective concerns. Every now and then I observed immigration interpreters trying to calm defendants down when they seemed apprehensive. Likewise, immigration interpreters would congratulate defendants when they were granted the relief they were seeking. In summary, immigration interpreters are an integral part of the hearing process, directly and indirectly as well as linguistically and pragmalinguistically.

9.2. FUTURE RESEARCH

In this research, I document the linguistic techniques by which interpreters become active and often intrusive members of immigration judicial proceedings and the extent to which they become linguistic filters for the discourse. The analyses included in this study demonstrate how interpreters, through their linguistic choices, change the testimony of the defendant, as well as the pragmatic force and intended meaning of the parties to these proceedings. Interpreters also alter the intended meaning of the questions of immigration judges and attorneys; therefore, there is room to explore the interpreting of these questions in greater detail. Another avenue for future research has to do with the role of pragmatic elements such as attention getters, which were present in the testimony of defendants and witnesses. Further research could examine which attention getters interpreters overlooked, and why.

In Chapter 6, I presented a number of challenges to good interpreting and analyzed interpreters' renditions of the testimony of defendants and witnesses in an attempt to determine the extent of interpreters' linguistic coercion and its possible influence on a hearing's outcome. It would also be interesting to analyze interpreters' TL renditions of judges' and attorneys' questions to determine the extent to which their interpreting alters the intended meaning and the pragmatic force of these questions. On the subject of politeness, which I addressed in Chapter 8, I hope to do a subjective-reaction test to determine the influence of politeness on the hearer. Due to the special conditions under which the data were collected and my lack of access to defendants after their hearings closed, I was unable to ask them to participate in a test to assess their subjective reactions to the addition of politeness markers to interpreters' TL renditions of questions that were put to these defendants.

Berk-Seligson (2002) and Conley and O'Barr (1998) devised an experimental study to determine whether powerless speech (more specifically, politeness) had a negative impact on the hearer. Berk-Seligson set up an experiment using a verbal-guise technique to find out whether the presence or absence of politeness markers in the English rendition of the speech of Spanish-speaking subjects had an impact on mock jurors. A psychological verbal-guise test could also be run to test the subjective reactions of mock defendants to interpreters' use of politeness markers. I also suggest that more research be done to explore the subjective reactions of judges to interpreters' use of hesitation forms. Another verbal-guise technique for mock immigration judges (or real ones if possible) could be devised to assess the impact of these hesitation forms on their assessments of the character, credibility, competence, and skill of both interpreters and defendants. On the basis of my analyses of the transcripts, my observations of the proceedings, my conversations with interpreters, and the previous findings of other researchers, I also

speculate on immigration interpreters' motivations for adding politeness markers. However, triangulation using quantitative attitudinal surveys and other measures to determine precisely why interpreters add these politeness markers in a given circumstance represents an important avenue for future research.

9.3. CONCLUSION

The principal objective of this research was to unveil the linguistic limitations and sociolinguistic pressures immigration interpreters face when serving as interpreters. In Chapter 4, I describe the ethnography of immigration hearings and the difficulty of gaining access to hard data. The immigration interpreters I observed took a genuine interest in my topic, which helped to speed the process of data collection. In Chapter 5, I detail the intimidating atmosphere of these immigration hearings due to the seriousness of the cases involved. I also discuss each interpreter's linguistic background and level of education. In Chapter 6, I show how interpreters construct courtroom reality by either mitigating or magnifying the culpability of defendants through a plethora of linguistic mechanisms such as inaccurate lexical choice, the manipulation of grammar, and the use of hesitation forms. I point out that an interpreter's failure to mirror the pragmatic force intended by the speaker constitutes a violation of the ethical standards established for interpreters in the United States. In Chapter 7, I bring to light some of the different calques and literal translations that interpreters use when they face linguistic challenges. I show how interpreters influence the turn-taking system of interaction by using literal translations and lexical calques. I make the point that the linguistic skills of bilingual interpreters affect the content of the message and its comprehensibility to monolingual parties to the hearing.

In Chapter 8, I show that interpreters tend to incorporate polite forms of address into their TL renditions, especially when defendants become anxious due to the intimidating atmosphere. These interpreters also incorporate politeness markers to restore defendants to their former social status in Hispanic culture by adhering to the conversational norms of Hispanic society. When addressing or referring to women, interpreters also choose to abide by Hispanic rules of politeness and consistently accord women respect.

Immigration interpreters are well aware of the interpreting guidelines and the code of ethics for interpreters. They all know that they must maintain accuracy, be impartial, and remain as unobtrusive as possible. However, as Wadensjö herself experienced when she served as an interpreter and was “confronted with the practical dilemma of being simultaneously seen as the lay person’s advocate and as the official’s helping hand” (1998, p.50), awareness is necessary but not sufficient to enable interpreters to remain impartial. The analysis and ethnographic notes of this study show that interpreters are often moved by defendants’ stories. Yet, there are those interpreters who claim to be able to identify when a defendant is lying. On one hand, interpreters recognize defendants’ hedges as particles that convey a lack of assertiveness and affect these defendants’ credibility. On the other hand, the analysis shows that interpreters overlook their own additions of such pragmatic particles, hesitation forms, discourse markers, and hedges to their TL renditions of defendants’ testimony, viewing them as inconsequential. In any case, whether interpreters believe defendants’ stories or not, their alteration of defendants’ discourse not only affects the pragmatic force of the original message, but also changes perceptions of defendants’ character and credibility. In summary, defendants can easily be placed at a linguistic disadvantage by an interpreter’s subjective reaction to them and by that interpreter’s failure to maintain legal equivalence in the TL rendition. Hale states that “those who cannot speak the

language of the courtroom have the right (morally if not legally) to express themselves in any way they want, choosing their own content, words, and speech style” (2004, p.239). As this study shows, interpreters must be highly skilled and experienced to truly maintain the register, the content, and the pragmatic force intended by the speaker.

Immigration interpreters are not certified; however, many do what they can to educate themselves by attending conferences and consulting with the coordinator of interpreters. It is of paramount importance that institutions such as immigration courts recognize the need for a unified and formal education in linguistics to help interpreters improve their linguistic, pragmatic, and cultural proficiency. Scholars such as Berk-Seligson in the United States, Hale in Australia, and Morris in England have raised awareness of the linguistic challenges interpreters face in their attempts to maintain legal and linguistic equivalence in the TL. My study should also serve to demonstrate to those in the private and public sectors as well as to those within educational institutions that skilled interpreting requires far more than the ability to speak a second language.

APPENDIX A

United States Department of Justice
Executive Office for Immigration Review

Your Appeal Rights
Read This Notice Carefully

1. You will have a hearing by an Immigration Judge who will enter a decision after the hearing is completed. If you are not satisfied with that decision, you have a right to appeal to the Board of Immigration Appeals, unless you waive your right to appeal.
2. If you wish to appeal your case, you must complete and file a Notice of Appeal (Form EOIR-26) with the Board of Immigration Appeals. You must send the Form EOIR-26 so that it is received by the Board of Immigration Appeals within thirty (30) calendar days after the Immigration Judge's oral decision or within thirty (30) calendar days after the date the Immigration Judge's written decision was mailed if no oral decision was rendered. Simply mailing the Form EOIR-26 within the time limit may not insure that the Form EOIR-26 is timely received by the Board.
3. You can get a Form EOIR-26 from any Immigration Court.
4. You must pay a \$110.00 fee when filing the Form EOIR-26 (except there is no fee for an appeal of an Immigration Judge's bond decision). If you cannot afford this fee, then you may apply for a fee waiver. In order ask for a fee waiver you must file, along with your appeal, an Appeal Fee Waiver Request (Form EOIR-26A). This form requests your monthly income and expenses and contains a sworn statement you must sign that asserts that the information in the form is true and correct to the best of your knowledge. The Board of Immigration Appeals will consider this information when deciding whether to grant your fee waiver request.
5. You may, at no expense to the government, consult with an attorney in order to assist with your appeal.
6. Unless you have waived your right to appeal from the Immigration Judge's decision to the Board of Immigration Appeals, you will not be required to depart from the United States during the time allowed for the filing of an appeal; further, you will not be required to depart from the United States while an appeal is pending before the Board or while your case is pending before the Board by way of certification.

APPENDIX B

Immigration Judge Individual Calendar Immigration Judge Master Detainee Calendar

Hearing day: Monday 15th, 2003

Immigration Judge: John Smith

Hearing Date: 05/15/03

Start Time	End Time	Hearing Location	Alien Name	Alien Number	H/C Type	T/V Adj	Nat	Alien Representative	Lang	Completion Type	Adjourned
9:00	11:00	Z	Marta Perez	11-111-111	ADE P	19	ES	Fonseca	SP	-	-
11:00	12:00	Z	Juan Marti nez	22-222-222	AR MV	12	EC	Santos	SP	-	-
1:00	2:00	Z	Rosa Luna	33-333-333	DEP	19	CO	Smith	SP	-	-

H/C Type = (Hearing Case Types) Hearing Types

I = Initial A = Adjournment B = Bond M = Motion to reopen

Case Types

DEP = Deportation EXC = Exclusion REC = Rescission RMV = Removal
AOC = Asylum Only CSR = Claimed Status Review
CFR = Credible Fear

(T/V Type = Telephonic Hearing / Video Conference Hearing)

+ = Not Lead Alien

* = A Completed Hearing, Bond or Motion to Reopen

@ = Expedited Asylum Cases

APPENDIX C

University of Pittsburgh Faculty of
Arts and Science Department of
Hispanic Languages 1309 Cathedral

Institutional Review Board
University of Pittsburgh
IRB Number:

CONSENT TO ACT AS A SUBJECT IN A RESEARCH STUDY

TITLE: **Linguistic Strategies in Immigration and Naturalization Hearings.** PRINCIPAL INVESTIGATOR:

Marjorie Zambrano PhD Candidate
University of Pittsburgh
1309 Cathedral of Learning
Pittsburgh, PA
Telephone

SOURCE OF SUPPORT: N/A

Why is this research being done?

You are being asked to participate in a research study that will analyze the performance of interpreters and the strategies Immigration and Naturalization (INS) judges use when interrogating native Spanish speaking defendants and witnesses. I will also evaluate how courtroom interpretation is done. A secondary objective is to determine what types of questioning approaches INS judges use when interrogating defendants and witnesses. This study will allow the researcher to gain insight into the judicial decision making process. I will be studying the way the interpreter and the judge interact with one another during the hearing.

Who is being asked to take part in this research study?

You are being asked to take part in this research study because you are Hispanic and have been scheduled to appear in this court in this INS office to defend your case with the INS. You may or not be U.S resident however; your appointment to appear in court to defend your case makes you eligible to participate. INS hearings that qualify for this research are the following: asylum, refugee status, cancellation of removal (i.e., deportation), cancellation of voluntary departure, and approval of marriage. If your case falls under any of these categories, you are eligible to participate in this research. This study will enroll a total of 50 male and female subjects 18 - 60 years of age from this INS court. These participants will be native Spanish Speakers.

Participant's Initials: _____

University of Pittsburgh
Institutional Review Board
Approval Date:
Renewal Date:
IRB Number.

What procedures will be performed for research purposes?

If you decide to take part in this research study, you will undergo the following procedures that are not part of your standard INS marriage based interview:

Procedures that the subject must undergo:

Procedures to determine if you are eligible to take part in a research study are called "screening procedures." For this research study, the screening procedures include:

1. Immigration hearings are ordinarily open to the public. The Immigration Judge (IJ) may place reasonable limits on the number in attendance, with priority given to the press, and may also limit attendance or hold a closed hearing for the purpose of protecting witnesses, parties, or the public interest.
2. Individuals whose hearings are closed for national security and hearings for battered children will not be taking part in this research study.
3. Participants who are immigrants from Hispanic background have been invited to take- part in this research study.

If you qualify to take part in this study, you will undergo the following experimental procedures:

- I. Prior to the hearing process, the researcher will introduce herself to you to explain the reason for the researcher's presence.
2. You will have a chance to read the consent form and sign or decline it of your own free will.
3. Your case is only identified by a case number, not by your name. In this way, the researcher secures your identity and anonymity. Any personal information will be kept anonymous and confidential.
4. Upon agreeing to take part in this study, you will give consent to the researcher to have access to the audio tape-recording of your hearing.
5. The audio tape-recorded data will be obtained through the Executive Office for Immigration Review, Office of General Counsel, FOIA Unit, Falls Church, VA. This office is the official entity through which lay people can gain access to INS hearings in the form of tapes or transcripts.

Participant's Initials: _____

The procedures performed after being given consent from the participant are the following:

I will sit in on the hearing only as an observer. I will neither ask any questions nor speak up at any time. After finishing the hearing, you are free to leave unless the INS judge has asked you to stay for any reason. I will be studying the way the interpreter and the judge interact with one another at the hearing and on the audio tapes after the hearing.

What are the possible risks from taking part in this study?

There are no anticipated risks associated with participating in this research. In order to maintain privacy, your personal information and identity will be kept confidential and anonymous. The participants, place and dates will be altered. They will be given fictional labels. Nobody will have access to the data. I am the sole investigator; therefore, I will keep the data and notes locked in a secure location, where no one will have access but me.

What are possible benefits from taking part in this study?

You will receive no direct benefit from taking part in this research study. However, it may help researchers better understand the work of the Immigration and Naturalization Service, the work and role of INS interpreters, and the language of questioning and interpreting. Therefore this research may help INS interpreters, judges and lawyers be more aware of the importance of their linguistic role and their importance of using only highly skilled interpreters in the future.

Will I be paid if I take part in this research study?

You will not be paid for your participation

Who will know about my participation in this research study?

All records related to your involvement in this research study will be stored in a locked file cabinet. Your identity in these records will be indicated by a case number rather than by your name, and the information linking these case numbers with your identity will be kept separate from the research records. Only the researchers listed on the first page of this form and their staff will have access to your research records. Your research records will be destroyed when such is approved by the sponsor of this study or, as per University policy, at 5 years following study completion, whichever should occur later.

Any information about you obtained from this research will be kept as confidential (private) as possible. You will not be identified by name in any publication of research results unless you sign a separate form giving your permission (release). In unusual cases, your research records may be released in response to an order from a court of law. It is also possible that authorized representatives of the Immigration and Naturalization Services of Newark, New Jersey, and/or the University Research Conduct and Compliance Office may inspect your research records. If the researchers learn that you or someone with whom you are involved is in serious danger or harm, they will need to inform the appropriate agencies as required by Pennsylvania law. The fact that you are participating in a research study and that you are undergoing

certain research procedures (but not the results of the procedures) may also be made known to individuals involved in insurance billing and/or other administrative activities associated with the conduct of the study.

Is my participation in this research study voluntary?

Your participation in this research study is completely voluntary. You do not have to take part in this research study and, should you change your mind, you can withdraw from the study at any time. Your current and future visits, interviews at an Immigration and Naturalization facility and any other benefits for which you qualify, will be the same whether you participate in this study or not. You are not under any obligation to participate in this research study offered by the investigator

If I agree to take part in this research study, can I be removed from the study without my consent?

It is possible that you may be removed from the research study by the researchers if, for example, your hearing is closed for national security or you have been accused of battering children.

Who will know about my participation in this research study?

All records related to your involvement in this research study will be stored in a locked file cabinet. Your identity in these records will be indicated by a case number rather than by your name, and the information linking these case numbers with your identity will be kept separate from the research records. Only the researchers listed on the first page of this form and their staff will have access to your research records. Your research records will be destroyed when such is approved by the sponsor of this study or, as per University policy, at 5 years following study completion, whichever should occur later.

Is my participation in this research study voluntary?

Your participation in this research study is completely voluntary. You do not have to take part in this research study and, should you change your mind, you can withdraw from the study at any time. Your current and future visits, interviews at an Immigration and Naturalization facility and any other benefits for which you qualify, will be the same whether you participate in this study or not. You are not under any obligation to participate in this research study offered by the investigator

If I agree to take part in this research study, can I be removed from the study without my consent?

It is possible that you may be removed from the research study by the researchers if, for example, your hearing is closed for national security or you have been accused of battering children.

VOLUNTARY CONSENT

All of the above has been explained to me and all of my current questions have been answered. I understand that I am encouraged to ask questions about any aspect of this research study during the course of this study, and that such future questions will be answered by the researchers listed on the first page of this form.

Any questions I have about my rights as a research participant will be answered by the Human Subject Protection Advocate of the IRB Office, University of Pittsburgh (412578-8570). By signing this form, I agree to participate in this research study. A copy of this consent will be given to me

Participant signature

Date

CERTIFICATION OF INFORMED CONSENT

"I certify that I have explained the nature and purpose of this research study to the above named individual(s), and I have discussed the potential benefits and possible risks of study participation. Any questions the individual(s) have about this study have been answered, and we will always be available to address future questions as they arise."

Printed Name of Person Obtaining Consent

Role in Research Study

Signature of Person Obtaining Consent

Date

APPENDIX D

WAIVER

To Whom It May Concern:

My name is Marjorie Zambrano and I am a graduate student at the University of Pittsburgh in the Department of Hispanic Languages and Literature majoring in Applied Linguistics in Spanish. As a second language acquisition graduate researcher, I am highly interested in gaining knowledge of the impact of judges and interpreters on bilingually conducted hearings. Specifically, the research is being conducted in the Z Area.

The cooperation of you in this project is highly important. The findings may help researchers better understand the work of the Immigration and Naturalization Service This request is made for a scholarly and/or scientific purpose and not for commercial use.

By signing below you agree to the release of your hearing tapes for the scholarly and/or scientific purpose as described above. To maintain privacy, your personal information and identity will be kept confidential and anonymous.

This Agreement shall be governed by this immigration office law. If you give your permission to participate, please sign below.

If you have any questions, please do not hesitate to contact me. My phone number is (111) 111-1111.

Very truly yours,

Marjorie Zambrano

Date: _____

Accepted and Agreed to: _____ Date: _____
Participant's signature

Name: _____

Alien # _____

APPENDIX E



U.S. Department of Justice

Executive Office for Immigration Review

Office of the General Counsel

5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

July 15, 2003

Marjorie Zambrano

RE: Freedom of Information Act Request

Dear Marjorie Zambrano:

This is in response to your Freedom of Information Act request which was received in this office on July 15, 2003. You have requested copies of documents in the above-referenced matter.

Your request is deemed to constitute an agreement to pay any applicable fees that may be chargeable up to \$25 without notice. Most requests do not require any fees; however, if fees in excess of \$25.00 are required, we will notify you beforehand. Fees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of \$4.00/\$7.00/\$10.25 per quarter hour, and for duplication of copies at the rate of \$.10 per copy. The first 100 copies and two hours of research time are not charged, and the remaining combined charges for search and duplication must exceed \$14.00 before we will charge you any fees.

Your request is being handled under the provisions of the Freedom of Information Act (5 U.S.C. Section 552). It has been assigned a control number: . Please cite this number in any further inquiry about this request.

We are processing your request as quickly as possible and will give it every consideration consistent with applicable law.

Sincerely,

Paralegal Specialist

APPENDIX F



U.S. Department of Justice

Executive Office for Immigration Review

Office of the General Counsel

5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

August 1, 2003

Marjorie Zambrano

RE: Freedom of Information Act Request

Dear Marjorie Zambrano:

This is to notify you of the status of your Freedom of Information Act request which was received by the Executive Office for Immigration Review on July 15, 2003.

Due to the complexity of your request, our office will require a 10 day extension beyond the standard processing time for FOIA requests to consult with agency components. An extension of time is authorized under 5 U.S.C. Section 552(a)(6)(B)(i).

If you have any further questions regarding this matter, please provide a response in writing.

Sincerely,

Paralegal Specialist

APPENDIX G

¡Bienvenido!

al

**BUREAU OF CITIZENSHIP AND
IMMIGRATION SERVICES (BCIS)**

A partir del 1^{er}o de marzo del 2003, el Servicio de Inmigración y Naturalización (INS) formará parte del Departamento de Seguridad Nacional de los EE.UU.

Aunque nos hemos reorganizado, usted podrá:

- ★ Encontrarnos en los mismos lugares
- ★ Obtener información y presentar solicitudes en la misma forma que lo hace ahora
- ★ Utilizar todos los formularios y documentos emitidos por INS

Para mayor información, visite nuestro sitio de la Red del Internet:

www.immigration.gov

o llámenos al:

1-800-375-5283

Servicio telefónico para personas con problemas auditivos:

1-800-767-1833

Departamento de Seguridad Nacional de los EE.UU.

¡Trabajando para los EE.UU. y usted!

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